CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 179

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING, DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORM., ETC., ET AL., PETITIONERS,

vs.

CHEMICAL FOUNDATION, INC.; E. I. DU PONT DE NEMOURS & CO., ETC., ET AL.

No. 180

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING, PETITIONER,

vs.

E. I. DU PONT DE NEMOURS & CO. AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

No. 181

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORM. ROESSLER, PETITIONER,

vs.

E. I. DU PONT DE NEMOURS & CO. AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

No. 182

BADISCHE ANILIN & SODA FABRIK, PETITIONER,

vs.

E. I. DU PONT DE NEMOURS & CO. AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED JUNE 4, 1930

CERTIORARI GRANTED OCTOBER 13, 1930

(35,101, 35,102, 35,103, 35,104).

(OVER)

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 271

WALTER O. WOODS, AS TREASURER OF THE UNITED STATES, PETITIONER,

vs.

THE CHEMICAL FOUNDATION, INC., AND E. I. DU PONT DE NEMOURS & CO.

No. 272

HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, PETITIONER,

vs.

FARBWERKE VORMALS MEISTER LUCIUS & BRÜNING, E. I. DU PONT DE NEMOURS & CO., AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

No. 273

HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, PETITIONER,

vs.

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORM. ROESSLER, E. I. DU PONT DE NEMOURS & CO., AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

No. 274

HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, PETITIONER,

vs.

BADISCHE ANILIN & SODA-FABRIK, E. I. DU PONT DE NEMOURS & CO., AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED JULY 8, 1930

CERTIORARI GRANTED OCTOBER 13, 1930

(35,193, 35,194, 35,195, 35,196)

(35,101, 35,102, 35,103, 35,104)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1930

No. 179

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING, DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORM., ETC., ET AL., PETITIONERS,

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CHEMICAL FOUNDATION, INC.; E. I. DU PONT DE NEMOURS & CO., ETC., ET AL.

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ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., NOVEMBER 3, 1930

(35,193, 35,194, 35,195, 35,196)

No. 271

WALTER O. WOODS, AS TREASURER OF THE UNITED STATES, PETITIONER,

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THE CHEMICAL FOUNDATION, INC., AND E. I. DU PONT DE NEMOURS & CO.

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No. 273

HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, PETITIONER,

vs.

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORM. ROESSLER, E. I. DU PONT DE NEMOURS & CO., AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

No. 274

HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, PETITIONER,

vs.

BADISCHE ANILIN & SODA-FABRIK, E. I. DU PONT DE NEMOURS & CO., AND WALTER O. WOODS, AS TREASURER OF THE UNITED STATES

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

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IN UNITED STATES DISTRICT COURT, DISTRICT OF DELAWARE

No. 487. In Equity

THE CHEMICAL FOUNDATION, INCORPORATED, Plaintiff,

v.

E. I. DU PONT DE NEMOURS AND COMPANY (a Corporation) and WALTER O. WOODS, as Treasurer of the United States, Defendants

DOCKET ENTRIES

June 23, 1922. Bill of complaint with Exhibits A1, A2, A3, B, C, D and E annexed, filed; same day subpoena to E. I. du Pont de Nemours and Company, defendant, returnable July 13, 1922.

June 23, 1922. Order that subpoena issue to Frank White, as Treasurer of the United States, defendant, and transmitted by Clerk with copy of bill of complaint and order to U. S. Marshal for District of Columbia; same day said order filed and subpoena issued, returnable July 13, 1922. (Exit writ and copies to Marshal by registered mail.)

July 10, 1922. Proof of filing of notice of suit, &c. filed.

[fol. 2]

July 11, 1922. Frank White, as Treasurer of the United States, defendant, appears by James H. Hughes, Jr., Esq., U. S. Attorney; same day præcipe filed.

July 11, 1922. Motion of Frank White as Treasurer of the United States, defendant, with stipulation annexed, filed; same day order extending time for filing answer of defendant until August 14, 1922; same day said order filed. (Exit copy to solicitors).

July 12, 1922. Stipulation filed; same day order extending time for filing answer of E. I. du Pont de Nemours and Company, defendant, until August 14, 1922; same day said order filed. (Exit copy to solicitors.)

July 13, 1922. Marshal of the District of Columbia returns on copy of order for special process, and on subpoena for Frank White as Treasurer of the United States, "Served," &c; same day copy and writ filed.

July 13, 1922. Marshall of the District of Delaware returns on subpoena for E. I du Pont de Nemours and Company "Served" &c; same day writ filed.

July 17, 1922. Report to Commissioner of Patents mailed and copy filed.

Aug. 11, 1922. Answer of E. I. du Pont de Nemours and Company filed.

Oct. 12, 1922. Stipulation filed; same day order extending time for plaintiff to file interrogatories until November 20, 1922; same day
[fol. 3] said order filed.

Nov. 23, 1922. Stipulation filed; same day order extending time for plaintiff to file interrogatories until December 20, 1922; same day said order filed.

Oct. 6, 1927. Stipulation filed.

Oct. 6, 1927. Order consolidating this cause with Nos. 492, 494 and 495, and that defendants file answers &c. within twenty days; same day order filed.

Nov. 4, 1927. Order extending time for filing answer, &c. by Frank White, as Treasurer of United States until November 15, 1927; same day order filed.

Nov. 9, 1927. Motion to dismiss and answer of Frank White as Treasurer of United States filed.

Mar. 13, 1928. Order setting case for trial April 30, 1928, at 10 o'clock A. M. same day order filed.

Apr. 30, 1928. Stipulation, with exhibits, filed.

Apr. 30, 1928. Stipulation, with exhibits, filed.

Apr. 30, 1928. Hearing.

Nov. 16, 1928. Opinion of Court, filed.
Dec. 15, 1928. Plaintiff's notice filed.
Dec. 15, 1928. Order denying motion to dismiss; same day order filed.
Dec. 15, 1928. Interlocutory decree; same day decree filed.
Dec. 21, 1928. Report to Commissioner of Patents mailed and copy filed.
Mar. 12, 1929. Motion filed; same day order that Walter O. Woods be substituted for Frank White, as Treasurer of United States, de-
[fol. 4] fendant; same day order filed.
Mar. 12, 1929. Petition of Walter O. Woods, as Treasurer of United States for appeal, with assignments of error filed; same day order allowing appeal; same day order filed.
Mar. 12, 1929. Citation issued.
Mar. 13, 1929. Petition of plaintiffs in causes Nos. 492, 494 and 495 for appeal, with assignments of error filed; same day order allowing appeal, bond in the sum of $250; same day order filed.
Mar. 15, 1929. Order approving bond on appeal in the sum of $250 with American Surety Company of New York as surety; same day bond filed.
Mar. 15, 1929. Citation issued.
Mar. 19, 1929. Citations, with acceptance of service by solicitors for appellees endorsed thereon, filed.

[fol. 5] IN UNITED STATES DISTRICT COURT

No. 492. In Equity

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING, Plaintiff,

v.

E. I. DU PONT DE NEMOURS & COMPANY (a Corporation) and WALTER O. WOODS, as Treasurer of the United States, Defendants

DOCKET ENTRIES

June 30, 1922. Bill of complaint filed; same day subpœna to E. I duPont deNemours & Company, defendant, filed; returnable July 20, 1922.

June 30, 1922. Order that subpœena issue Frank White as Treasurer of the United States, defendant, and be transmitted by clerk to U. S. Marshal for District of Columbia, with copy of bill and order &c; same day said order filed and subpœna issued, returnable July 20, 1922. (Exit writ and copies to Marshal.)

July 18, 1922. Motion of Frank White, as Treasurer of the United States to dismiss bill of complaint, filed.

July 20, 1922. Marshal of District of Columbia returns on copy of order for special process and on subpœna for Frank White as Treasurer of the United States, "Served" &c.; same day copy and writ filed.

July 20, 1922. Marshal of District of Delaware returns on subpœna for E. I. du Pont de Nemours & Company, "Served," &c.; same day

[fol. 6] writ filed.

July 20, 1922. Motion of E. I. du Pont de Nemours & Company to dismiss bill of complaint filed.

Oct. 6, 1927. Stipulation filed. (Filed in No. 487 in Eq.).

Oct. 6, 1927. Order consolidating this cause with Nos. 487, 494 and 495, and that defendants file answer, &c., within twenty days; same day order filed. (Filed in No. 487.)

Nov. 4, 1927. Order extending time for filing answer by Frank White, as Treasurer of the United States; same day said order filed. (Filed in No. 487.)

Nov. 9, 1927. Order granting leave to Frank White as Treasurer of United States to abandon motion to dismiss filed July 18, 1922; same day order filed.

Nov. 9, 1927. Motion to dismiss and answer of Frank White as Treasurer of United States, filed.

Jan. 16, 1928. Order granting leave to withdraw motion to dismiss, filed July 20, 1922; same day order and motion to dismiss and answer of E. I. du Pont de Nemours & Company, filed.

Mar. 13, 1928. Order setting case for trial April 30, 1928, at 10 o'clock A. M.; same day order filed. (Filed in No. 487.)

Apr. 28, 1928. Motion of Howard Sutherland, as Alien Property Custodian to be substituted as party plaintiff, filed.

Apr. 30, 1928. Stipulation with Exhibits, filed. (Filed in No. 487.)

Apr. 30, 1928. Hearing.

Nov. 16, 1928. Opinion of court filed. (Filed in No. 487.)

[fol. 7]

Dec. 15, 1928. Defendant's notice, filed.

Dec. 15, 1928. Order denying motion of Alien Property Custodian to be substituted as party plaintiff; same day order filed.

Dec. 15, 1928. Final decree dismissing bill of complaint, with costs; some day decree filed.

Mar. 8, 1929. Petition of plaintiff for appeal, with assignments of error filed; same day order allowing appeal, bond in the sum of $250.00; same day order filed.

Mar. 12, 1929. Motion filed; same day order that Walter O. Woods be substituted for Frank White as Treasurer of the United States, defendant; same day order filed.

Mar. 12, 1929. Petition of Howard Sutherland as Alien Property Custodian for appeal, filed; same day order allowing appeal; same day order filed.

Mar. 12, 1929. Citation issued.

Mar. 15, 1929. Order approving plaintiff's bond on appeal in the sum of $250, with American Surety Company as surety; same day bond filed.

Mar. 15, 1929. Citation issued.

Mar. 19, 1929. Citations with acceptance of service by solicitors for appellees endorsed thereon, filed.

[fol. 8] No. 494. In Equity

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT vorm. ROESSLER, Plaintiff,

v.

E. I. DU PONT DE NEMOURS & COMPANY (a Corporation) and WALTER O. WOODS, as Treasurer of the United States, Defendants

DOCKET ENTRIES

June 30, 1922. Bill of complaint filed; same day subpœna to E. I. du Pont de Nemours & Company, defendant, issued, returnable July 20, 1922.

June 30, 1922. Order that subpœna issue to Frank White as Treasurer of the United States, defendant, and be transmitted to U. S. Marshal for District of Columbia, with copy of bill and order, &c; same day said order filed and subpœna issued, returnable July 20, 1922. (Exit writ and copies to Marshal by mail.)

July 18, 1922. Motion of Frank White as Treasurer of the United States to dismiss bill of complaint, filed.

July 20, 1922. Marshal of District of Columbia returns on copy of order for special process and on subpœna for Frank White as Treasurer of the United States, "Served", &c; same day copy and writ filed.

July 20, 1922. Marshal of District of Delaware returns on subpœna for E. I. du Pont de Nemours and Company, "Served", &c; same day writ filed.

July 20, 1922. Motion of E. I. du Pont de Nemours and Company to dismiss bill of complaint filed.

[fol. 9]

Oct. 6, 1927. Stipulation filed. (Filed in No. 487 in Eq.)

Oct. 6, 1927. Order consolidating this cause with Nos. 487, 492 and 495, and that defendants file answer, &c.; within twenty days; same day order filed. (Filed in No. 487.)

Nov. 4, 1927. Order extending time for filing answer, &c. by Frank White as Treasurer of the United States until November 15, 1927; same day order filed. (Filed in No. 487.)

Nov. 9, 1927. Order granting Frank White as Treasurer of the United States leave to abandon motion to dismiss filed July 18, 1922; same day order filed.

Nov. 9, 1927. Motion to dismiss and answer of Frank White as Treasurer of United States, filed.

Jan. 16, 1928. Order granting leave to withdraw motion to dismiss filed July 20, 1922; same day order and motion to dismiss and answer of E. I. du Pont de Nemours and Company, filed.

Mar. 13, 1928. Order setting case for trial April 30, 1928, at 10 o'clock A. M.; same day order filed. (Filed in No. 487.)

Apr. 28, 1928. Motion of Howard Sutherland as Alien Property Custodian to be substituted as party plaintiff, filed.

Apr. 30, 1928. Stipulation, with Exhibits, filed. (Filed in No. 487.)

Apr. 30, 1928. Hearing.
Nov. 16, 1928. Opinion of court, filed. (Filed in No. 487.)
[fol. 10]
Dec. 15, 1928. Defendant's notice, filed.
Dec. 15, 1928. Order denying motion of Alien Property Custodian to be substituted as plaintiff, &c; same day order filed.
Dec. 15, 1928. Final decree dismissing bill of complaint, with costs; same day decree filed.
Mar. 8, 1929. Petition of plaintiff for appeal, with assignments of error, filed; same day order allowing appeal, bond in the sum of $250; same day order filed.
Mar. 12, 1929. Motion filed; same day order that Walter O. Woods be substituted for Frank White as Treasurer of the United States, defendant; same day order filed.
Mar. 12, 1929. Petition of Howard Sutherland as Alien Property Custodian for appeal, filed; same day order allowing appeal; same day order filed.
Mar. 12, 1929. Citation issued.
Mar. 15, 1929. Order approving bond of plaintiff on appeal in the sum of $250. with American Surety Company of New York as surety; same day bond filed.
Mar. 15, 1929. Citation issued.
Mar. 19, 1929. Citations with acceptance of service by solicitors for appellees endorsed thereon, filed.

[fol. 11] In United States District Court

No. 495. In Equity

Badische-Anilin & Soda Fabrik, Plaintiff,

v.

E. I du Pont de Nemours & Company (a Corporation) and Walter O. Woods, as Treasurer of the United States, Defendants.

Docket Entries

June 30, 1922. Bill of complaint filed; same day subpœna to E. I. du Pont de Nemours & Company, defendant, issued, returnable July 20, 1922.

June 30, 1922. Order that subpœna issue to Frank White as Treasurer of the United States, defendant, and be transmitted by Clerk with copy of bill and order to U. S. Marshal for District of Columbia; same day said order filed and subpœna issued, returnable July 20, 1922. (Exit writ and copies to Marshal by mail.)

July 18, 1922. Motion of Frank White as Treasurer of the United States to dismiss bill of complaint, filed.

July 20, 1922. Marshal of District of Columbia returns on copy of order for special process and on subpœna for Frank White as Treasurer of the United States, "Served," &c; same day copy and writ filed.

July 20, 1922. Marshal of District of Delaware returns on subpœna to E. I. du Pont de Nemours and Company, "Served," &c; same day writ filed.

[fol. 12]

July 20, 1922. Motion of E. I. du Pont de Nemours and Company to dismiss bill of complaint filed.

Oct. 6, 1927. Stipulation filed. (Filed in No. 487 in Eq.)

Oct. 6, 1927. Order consolidating this cause with Nos. 487, 492 and 494, and that defendants file answer, &c; within twenty days; same day order filed. (Filed in No. 487.)

Nov. 4, 1927. Order extending time for filing answer by Frank White as Treasurer of the United States until November 15, 1927; same day said order filed. (Filed in No. 487.)

Nov. 9, 1927. Order granting Frank White as Treasurer of the United States leave to abandon motion to dismiss filed July 18, 1922; same day order filed.

Nov. 9, 1927. Motion to dismiss and answer of Frank White as Treasurer of United States, filed.

Jan. 16, 1928. Order granting leave to withdraw motion filed July 20, 1922; same day order and motion to dismiss and answer of E. I. du Pont de Nemours and Company, filed.

Mar. 13, 1928. Order setting case for trial April 30, 1928, at 10 o'clock A. M.; same day order filed. (Filed in No. 487.)

Apr. 28, 1928. Motion of Howard Sutherland as Alien Property Custodian to be substituted as party plaintiff, filed.

Apr. 30, 1928. Stipulation, with Exhibits, filed. (Filed in No. 487.)

Apr. 30, 1928. Hearing.

[fols. 13 & 14]

Nov. 16, 1928. Opinion of court, filed. (Filed in No. 487.)

Dec. 15, 1928. Defendant's notice, filed.

Dec. 15, 1928. Order denying motion of Alien Property Custodian to be substituted as party plaintiff, &c; same day order filed.

Dec. 15, 1928. Final decree dismissing bill of complaint, with costs &c; same day decree filed.

Mar. 8, 1929. Petition of plaintiff for appeal, with assignments of error, filed; same day order allowing appeal, bond in the sum of $250.; same day order filed.

Mar. 12, 1929. Motion filed; same day order that Walter O. Woods be substituted for Frank White as Treasurer of the United States, defendant; same day order filed.

Mar. 12, 1929. Petition of Howard Sutherland as Alien Property Custodian for appeal, filed; same day order allowing appeal; same day order filed.

Mar. 12, 1929. Citation issued.

Mar. 15, 1929. Order approving bond of plaintiff on appeal in the sum of $250. with American Surety Company of New York as surety; same day bond filed.

Mar. 15, 1929. Citation issued.

Mar. 19, 1929. Citations with acceptance of service by solicitors for appellees endorsed thereon, filed.

[fol. 15] IN UNITED STATES DISTRICT COURT

No. 487

[Title omitted]

BILL OF COMPLAINT—Filed June 23, 1922

To the Honorable Judges of said court, in chancery sitting:

I. Plaintiff is The Chemical Foundation, Incorporated, a corporation of the State of Delaware and a citizen of said state, with its principal office in the City of Wilmington in said state. The defendants are E. I. du Pont de Nemours and Company, a corporation of the State of Delaware, which has its principal place of business at Wilmington, in the District aforesaid; and Frank White, as Treasurer of the United States, who resides and as such officer has his office in the City of Washington, District of Columbia.

II. This suit is brought under Section 10 of the Act of Congress, approved October 6, 1917, known as the "Trading with the Enemy Act," as amended.

III. Heretofore the following Letters Patent of the United States of America were granted and issued, to-wit: Nos. 680,395, 868,294 and 718,340; the names of the inventors and patentees, the dates of issuance and the title [fol. 16] or description of the several inventions or discoveries indicating their nature and design being set forth in the said Letters Patent. Copies of the specifications thereof are hereto annexed, made a part hereof, marked "Exhibits A-1 to A-3," respectively, and the said Letters Patent or certified copies thereof are ready to be produced at the hearing of this cause. The inventors named in each of said letters patent were the original, first and sole inventors of the respective inventions or discoveries therein set forth, and lawfully filed and prosecuted applications for said letters patent; and having complied in all respects with the statutes and the rules of the patent office, the said letters patent were lawfully granted and issued pursuant to said applications.

Each of the said inventions or discoveries of said inventors was new, useful and not known or used by others in this country before his invention or discovery thereof, and not patented or described in any printed publication

anywhere before his invention or discovery thereof, or more than two years prior to his application for United States patent, and not in public use or on sale in the United States for more than two years prior to the application, and not patented in any foreign country on an application filed more than twelve months before his said application was filed in the United States, and not abandoned.

IV. Under authority of and in conformity with the said Trading with the Enemy Act and the Executive Orders made pursuant thereto, the Federal Trade Commission on or about the twenty-first day of January, 1918, granted upon the terms and conditions therein stated a certain license under Section 10 of said act to the defendant, E. I. du Pont de Nemours and Company, under the aforementioned letters patent, as more fully set forth in the copy [fol. 17] of said license hereto annexed, made a part hereof, marked Exhibit B. Said license, among other things, provided that the said defendant should pay to the Alien Property Custodian semi-annually a royalty of five per cent. (5%) of the net profit derived from the sale of the products included in said license.

V. On or about the fourteenth day of January, 1920, by order of the Federal Trade Commission acting under like authority, said license was amended so as to provide that from on and after August 1, 1919, royalty payable thereunder should be at the rate of 2 per cent. of the gross amounts received by the defendant licensee from the sale of the products included in said license, as more fully set forth in the copy of said order hereto annexed, made a part hereof, marked Exhibit C.

VI. Subsequent to the granting of the license aforesaid, the Alien Property Custodian, acting under authority of and in conformity with the Trading with the Enemy Act, as amended, and the proclamations and executive orders made pursuant thereto, after investigation, determined to be enemy owned and seized as enemy owned all of the said letters patent and every right, title and interest with respect thereto; and thereafter under authority of and in conformity with law as aforesaid, the said Custodian sold to the plaintiff said letters patent and every right, title and interest with respect thereto. The said seizures and the

instruments evidencing said sales were duly filed and recorded in the United States Patent Office, all as will more fully appear from the schedule hereto annexed, made a part hereof, marked Exhibit D, which seizures and instruments are by reference made a part hereof.

VII. On or about the first day of September, 1920, the Federal Trade Commission, acting under authority as [fol. 18] aforesaid, cancelled and terminated said license by an order, as more fully set forth in the copy thereof hereto annexed, made a part hereof, marked Exhibit E.

VIII. By reason of the foregoing plaintiff became on, to wit, the tenth day of April, 1919, and now is the sole owner of the said letters patent and the inventions and discoveries covered thereby and of every right, title and interest therein, including the rights inuring to the "owner" of said letters patent under Section 10 of the Trading with the Enemy Act.

IX. Plaintiff is informed and believes and states the fact to be that up to the time of the cancellation or termination of the said license as above set forth defendant, E. I. du Pont de Nemours and Company, operated and acted thereunder and realized divers proceeds from the sale of products included therein; but plaintiff is not informed as to what moneys, if any, may have been paid or are payable by said defendant to the Alien Property Custodian, as required by the terms of said license, nor as to what moneys, if any, are now held by the defendant Treasurer of the United States by virtue thereof.

X. In addition to the inventions covered by the letters patent enumerated in paragraph III hereof, there were licensed by the aforementioned license such other inventions owned or controlled by an enemy or ally of an enemy as might be found desirable in order to further the purposes and intent of said licenses as more particularly set forth therein; and plaintiff is the owner of divers inventions covered by United States Letters Patent other than those specified in said paragraph III, which at divers times were determined by the Alien Property Custodian to be enemy or ally of enemy owned and as such were seized and sold to the plaintiff, and which may have been used by the [fol. 19] defendant licensee as desirable for the furtherance of the intent and purposes of said license. Plaintiff

is not informed as to which, if any, of said additional letters patent owned by it were so used by the defendant licensee, nor as to the nature or extent of such use; but such letters patent, if any there be, are hereinafter referred to as "additional licensed patents." With reference to each of such additional licensed patents, each and every the allegations so far as applicable of paragraph III hereof, and each and every the allegations so far as applicable of paragraph number VI hereof, are hereby by reference repeated and alleged as fully as though incorporated herein. By reason of the premises the plaintiff became and now is the sole owner of the said additional licensed patents and the inventions and discoveries covered thereby, and of every right, title and interest therein, including the rights inuring to the "owner" of letters patent under Section 10 of the Trading with the Enemy Act.

Wherefore, the premises considered, the plaintiff prays as follows:

First. That the usual process of this court be issued to and served upon the defendant, E. I. du Pont de Nemours and Company; and that by special order of this court under Section 17 of the Trading with the Enemy Act, process be by the clerk of this court transmitted to the United States Marshall of the District of Columbia to be by him served upon the defendant, Frank White, as Treasurer of the United States.

Second. That said defendant, E. I. du Pont de Nemours and Company, be required to make full and true discovery of its operations under said license and its profits thereunder with respect to the letters patent involved in this proceeding from and after the time plaintiff became the owner thereof, as aforesaid, including the exact specification of the letters patent under which such operations were [fol. 20] conducted, and that upon such discovery being had, the plaintiff be given leave to make such amendment to this bill of complaint as it may be advised.

Third. That this Court do fix and determine the amount of a reasonable royalty for the use and enjoyment of said letters patent under said license subsequent to the time last mentioned and do adjudge and decree the payment thereof to the plaintiff.

Fourth. That an accounting be taken by this Court or under its direction to ascertain the amounts due by the defendant, E. I. du Pont de Nemours and Company, to the plaintiff in the premises, and to ascertain the amounts paid by said defendant to the Alien Property Custodian and now held by the defendant Frank White as Treasurer of the United States.

Fifth. That upon the stating of said account the defendant, Frank White, as Treasurer of the United States, be ordered to pay to the plaintiff the money, if any, so deposited with him under said license, or so much of said deposit as is necessary to satisfy the judgment and decree of this Court; and if such deposit be insufficient to pay such judgment and decree in full, that the plaintiff have decree against the said defendant, E. I. du Pont de Nemours and Company, for the deficiency.

Sixth. That the plaintiff may have such other and further relief as may be consonant with equity and as the nature of the case may require.

(Sgd.) Wm. G. Mahaffy, Solicitor for Plaintiff.
(Sgd.) Evarts, Choate, Sherman & Leon, of Counsel.

[fol. 21] EXHIBIT "A-1" TO BILL OF COMPLAINT

United States Patent Office

Johannes Pfleger, of Frankfort-on-the-Main, Germany, Assignor to Deutsche Gold & Silber Scheide Anstalt Vorm. Roessler, of Same Place.

Process of Making Indoxyl Derivatives

Specification-Forming Part of Letters Patent No. 680,395, Dated August 13, 1901

Application filed July 8, 1901. Serial No. 67,558. (No specimens)

To all whom it may concern:

Be it known that I, Johannes Pfleger, a subject of the Emperor of Germany, and a resident of 215 Gutleutstrasse, Frankfort-on-the-Main, Germany, have invented certain new and useful Improvements in Indoxyl Derivatives, of which the following is a specification.

Heumann's synthesis of indigo as set forth in the German Patent No. 54,626 (fusing phenyl-glycocol with caustic alkali), could not, despite the low prices of the materials, find any practical application, because the yield relatively to the glycocol is only about eight to ten per cent. In Friedlaender's Fortschritte der Theerfarben Fabrikation (Part II, page 100) this poor yield is ascribed to the fact that the caustic alkali destroys the indoxyl first formed, anilin being thereby formed, and, above all, (see, for instance, Biedermann, Lepetit Berichte, XXIII, page 3,290,) to the temperature of condensation, (260° to 350° centigrade,) which is so high that the phenyl-glycocol undergoes further splitting and decomposition before the condensation into indoxyl takes place. Now I have found that an alkaline amid, such as sodium amid, can be used as a means of condensation. It melts at a much lower temperature than caustic potash—namely, at about 120° centigrade—and presents the great advantage that it effects at its melting-point the required condensing effect on the aromatic glycocol, thereby avoiding the undesirable decomposition of the latter, which is caused by a too high temperature. Homologous glycocol, such as tolyl-glycocol, and also substitution glycocol, such as phenyl-glycocol-orthocarbonic acid, behave in the same manner as the simplest glycocol. In lieu of free glycocol its salts and esters may be used. The mode of operating can be largely varied, according to the qualities of the materials used. Either the alkaline amid, such as sodium amid, is melted and the glycocol introduced as such or diluted into the molten amid or the ground amid is mixed with glycocol and occasionally with a diluent and introduced into a vessel heated to the proper temperature. When the condensation takes place, ammonia escapes, so that no difficulties are experienced in eliminating the injurious influence of the air. The chemical reaction may be expressed by the following equation, (using the sodium salt of the glycocol mentioned and sodium amid:)

$$C_6H_5NH.C.H_2CO_2Na + = C_6H_4\begin{cases} NH \\ CO \end{cases}CH_2. + Na_2O + NH_3.$$

The conversion of the indoxyl derivative contained in the fused mass into indigo can be effected in the manner already known.

In lieu of the sodium amid already referred to in the foregoing other alkaline amids may be used which will produce the same action.

Example 1: Three parts of sodium amid are melted and heated to 180° centigrade, and one part of phenyl-glycocol sodium is introduced gradually into this thin fluid mass while it is being stirred.

Example 2: One part of sodium amid and two parts of ninety-eight to one hundred per cent. potassium cyanid are melted and raised to a temperature of 230° centigrade, and then one part of phenyl-glycocol sodium is introduced gradually into the mixture. The potassium cyanid does not take part in the reaction, but acts merely as a diluent and is recovered almost without loss.

Example 3: One part potassium amid and two parts sodium cyanid are melted together and raised to 230° centigrade. One part of phenyl-glycocol sodium is then introduced gradually into the mixture.

Example 4: Into a molten mass consisting of two parts of sodium amid and 3.5 parts of potassium cyanid are introduced gradually at 230° centigrade into two parts of phenyl-glycocol while it is being stirred.

Example 5: One part of sodium amid, one part of caustic potash, one part of caustic soda, and one part of potassium cyanid are melted together and one part of phenyl-glycocol ester introduced thereinto at 220° centigrade.

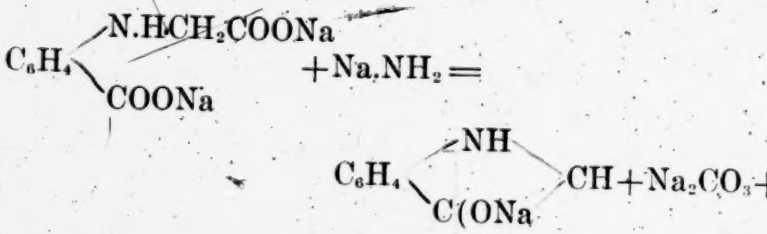
Example 6: One part of sodium amid and two parts [fol. 22] potassium cyanide are melted and one part of paratolyl-glycocol sodium introduced thereinto at 250° centigrade.

Example 7: Three parts of sodium-phenyl-glycocol-orthocarbonate and two parts of sodium amid are mixed intimately and introduced little by little into a vessel heated to 250° centigrade.

German Patent No. 105,495, Class 12, discloses a process of manufacture of indoxyl derivatives at a mild temperature from the ester of the phenyl-glycocol-orthocarbonic acid.

The technical process realized by the present invention over the process covered by the aforesaid German patent consists in the fact that in using the phenyl-glycocol-ortho-carbonic acid as initial material there is no need to use the neutral esters of this acid, which are costly and difficult to prepare, as in the present case the neutral alkaline salts, which are easy to obtain at a small cost, are used at the start. The reaction is also a different one in the present case.

While in the process disclosed in German Patent No. 105,495 an ester of the indoxyl-carbonic acid is obtained with a splitting off into water and alcohol, the condensation process forming the object of the present invention produces indoxyl, while sodium carbonate is formed and ammonia evolved in accordance with the following equation:



I claim—

The herein-described process of producing indoxyl derivatives from aromatic glycocol by reacting on the latter with an alkaline amid substantially as and for the purpose set forth.

In testimony whereof I have signed my name to this specification in the presence of two subscribing witnesses.

Johannes Pfleger.

Witnesses: Jean Grund, Michael Polk.

[fols. 23 & 24] EXHIBIT "A-2" TO BILL OF COMPLAINT

United States Patent Office

Robert Schmidlin, of Höchst-on-the-Main, Germany, Assignor to Farbwerke Vorm. Meister, Lucius & Brüning, of Höchst-on-the-Main, Germany, a Corporation of Germany.

Process of Producing Phenylglycin and Its Homologues

No. 868,294. Specification of Letters Patent. Patented Oct. 15, 1907

Application Filed May 23, 1906. Serial No. 318,297

To all whom it may concern:

Be it known that I, Robert Schmidlin, chemist, a citizen of the Swiss Republic, residing at Höchst-on-the-Main, Germany, have invented certain new and useful Improvements in the Process for Producing Phenylglycin and its Homologues, of which the following is a specification.

By the usual process for obtaining phenylglycin by the action of chloratic acid on an excess of anilin, or of anilin in presence of agents capable of combining with hydrochloric acid, like alkalies or acetates, poor yields are obtained owing to formation of by-products from the action of chloracetic acid on the phenylglycin produced.

According to the present invention good yields may be obtained, if care be taken that when the glycin or its homologues be formed it is separated as an insoluble salt of a heavy metal so that it is no longer liable to the further action of the chloracetic acid.

The process may be carried out, for instance, as follows: Chloracetic acid is allowed to act on anilin in presence of ferrous hydrate, or in presence of ferrous carbonate, and a concentrated salt solution; the phenylglycin iron salt thus formed is insoluble in a hot concentrated salt solution and may be filtered and decomposed by caustic alkali or alkali carbonate.

The following example illustrates the invention, but it is capable of variation both as regards the proportions and the details thereof: 1250 kilos of ferrous chlorid are dis-

solved in water and precipitated with the requisite quantity of soda lye or sodium carbonate, whereupon preferably 300 kilos of common salt are added and the mixture heated to from 90-100° C., 472 kilos of chloracetic acid being then added and the whole is stirred once and 510 kilos of anilin are rapidly introduced, whereupon the whole is heated under a reflux condenser for one hour and a half. When cold, the phenylglycin iron salt thus obtained is filtered, washed with some cold water, stirred with water and decomposed with soda lye or sodium carbonate. The mass is made to boil by steam and the unchanged anilin is distilled or filtered off. The ferrous oxid or ferrous carbonate is separated by filtration and the phenylglycin is precipitated from the filtrate by carefully adding dilute mineral acid. In a like manner homologues of phenylglycin, such as tolylglycin, are obtained, if for the anilin in the example be substituted the equivalent quantity of the homologue, such as toluidin.

Having described my invention, what I claim is:

The herein described process of making phenylglycin and its homologues, which consists in causing primary anilin bases to interact in the heat with chloracetic acid in presence of ferrous hydrate and a saturated indifferent alkali salt solution.

In testimony, that I claim the foregoing as my invention, I have signed my name in presence of two subscribing witnesses.

Robert Schmidlin.

Witnesses: Jean Grund, Carl Grund.

[fol. 25] EXHIBIT "A-3" TO BILL OF COMPLAINT

United States Patent Office

Otto J. Graul, of Ludwigshafen-on-the-Rhine, Germany, Assignor to Badische Anilin and Soda Fabrik, of Ludwigshafen-on-the-Rhine, Germany, a Corporation of Germany

Process of Making Cyan-Methyl Derivatives of Aromatic Amids

Specification Forming Part of Letters Patent No. 718,340, Dated January 13, 1903

Application filed January 28, 1902. Serial No. 91,635. (No specimens)

To all whom it may concern:

Be it known that I, Otto J. Graul, doctor of philosophy and chemist, a subject of the Duke of Anhalt, residing at Ludwigshafen-on-the-Rhine, in the Kingdom of Bavaria, Germany, have invented new and useful Improvements in Processes of Making Omega-Cyan-Methyl Derivatives of Aromatic Amido Substances, of which the following is a specification.

This invention relates to a new process for the production of omega-cyan-methyl derivatives of certain aromatic amins or substitution products of these latter.

By the action of formic aldehyde upon certain aromatic amins or aromatic amido substances the corresponding anhydro-formalde-hyde-aromatic-amido substance is formed. Thus formic aldehyde and anilin yield anhydro-formaldehyde-anilin. These anhydro-formaldehyde-aromatic-amido substances when treated with an alkali bisulfite, such as sodium bisulfite, yield products which are termed, for instance, in the case of anilin, "anhydro-formaldehyde-anilin-sodium-bisulfite," (see Eibner, Annalen der Chemie, Vol. 316, page 126,) and generally they are hereinafter termed "anhydro-formaldehyde-aromatic-amido-substance-alkali-bisulfite." These compounds I will hereinafter for the sake of brevity designate also as "bisulfite" compounds. Now I have found that if certain such

bisulfite compounds be acted upon by a salt of hydrocyanic acid, such as potassium cyanid or sodium cyanid, the above-mentioned omega-cyan-methyl derivatives are produced.

Among the aromatic amido substances which can be employed in carrying out this my invention are anilin, the toluidins, the xylidins, the naphthylamins, and anthranilic acid, (ortho-carboxy-anilin,) all of which substances I desire to have hereinafter included in the generic term "aromatic amido substance."

For the purposes of this invention it is immaterial how the bisulfite compound to be employed is prepared.

In the preferred embodiment of my process I operate as follows: I cause formic alde-hyde to act upon, say, sodium bisulfite, and upon this product I cause, say, anilin to act, and upon the so-resulting product I cause, say, potassium cyanid to act. It is immaterial, however, in what order the three substances first mentioned—namely, formic aldehyde, the bisulfite, and the aromatic amido substance are brought together, and this order may be varied without affecting the nature of my invention.

I will further illustrate the nature of this my invention by means of the following examples, without, however, wishing to limit myself to the proportions or other conditions therein given. The parts are by weight, and the temperature degrees refer to the centigrade-scale.

Example 1

Production of amega-cyan-methyl-anilin from anilin, formic aldehyde, sodium bisulfite, and potassium cyanid.—Mix together three hundred parts of a solution of bisulfite of soda containing forty (40) per cent of that substance ($NaHSO_3$) and eighty (80) parts of a commercial solution of formic aldehyde containing thirty-eight (38) per cent of that aldehyde. To this add ninety-three (93) parts of anilin, stirring well the meanwhile and keeping the temperature at about fifty (50) degrees. In a short time the bisulfite compound of anhydro-formaldehyde-anilin will have been formed. Now add one hundred and fifty (150) parts of caustic-soda solution containing four (4) per cent of caustic soda (NaOH) and pour it into a solution of seventy (70) parts of potassium cyanid in three hundred (300) parts of water, and heat this mixture in a wafer-bath

to a temperature of from forty (40°) to fifty (50°) degrees. After having been maintained at the above temperature for about two (2) hours the mixture is transformed into a watery and an oil-like layer. This oil-like layer is the desired omega-cyan-methyl-anilin, which may be separated directly from the warm watery layer, or the whole may be allowed to cool, so that the oil-like layer solidifies, and the solidified portion may then be separated from the watery portion by filtration. The so-obtained omega-cyan-methyl-[fol. 26] anilin is a practically pure product. I may also employ other aromatic amido substances in the place of the anilin of this Example 1; but then the working operations should be changed, as will readily be understood by chemists, so as to suit each individual case, as will be shown in the following examples.

Example 2

A. Production of the bisulfite compound of anhydro-formaldehyde-anilin.—Introduce one hundred and five (105) parts of powdered anhydro-formaldehyde-anilin into five hundred (500) parts of a solution of bisulfite of soda containing forty (40) per cent of that substance, ($NaHSO_3$). Heat this mixture by means of a water-bath to a temperature of from eighty (80°) to ninety (90°) degrees, stirring the meanwhile, until a clear solution is obtained. On cooling the liquor the bisulfite compound separates out in the form of white glistening leaflets.

B. Production of omega-cyan-methyl-anilin from the product of Example 2 A.—Introduce, while stirring, two hundred and nine (209) parts of the bisulfite compound resulting from the preceding Example 2 A into a solution of seventy (70) parts of potassium cyanid in one thousand (1,000) parts of water, and heat this mixture in the water-bath to a temperature of from forty (40°) to fifty (50°) degrees. After having been maintained at the above temperature for about two (2) hours the mixture is transformed into a watery and an oil-like layer. This oil-like layer is the desired omega-cyan-methyl-anilin, which may be separated directly from the warm watery layer, or the whole may be allowed to cool, so that the oil-like layer solidifies, and the solidified portion may then be separated from the watery layer by filtration. The so-obtained omega-cyan-methyl-anilin is a practically pure product.

Example 3

Production of omega-cyan-methyl-anilin from anhydro-formaldehyde-anilin in one operation.—Introduce one hundred and five (105) parts of anhydro-formaldehyde-anilin into five hundred (500) parts of a solution of bisulfite of soda containing forty (40) per cent of that substance and heat the mixture, stirring the meanwhile, by means of a water-bath to a temperature of eighty (80°) degrees until complete solution is effected. Now filter off any suspended impurity and add five hundred (500) parts of water and three hundred and seventy (370) parts of a cold solution of caustic soda containing ten (10) per cent of caustic soda, (NaOH). Now cool the liquid to a temperature of fifty (50°) degrees and pour it into a solution of seventy (70) parts of potassium cyanid in three hundred (300) parts of water. The omega-cyan-methyl anilin separates out almost immediately from the clear solution as an oil-like layer and may be separated from the watery layer, as described in Example 1.

In place of the anhydro-formaldehyde-anilin corresponding amounts of other anhydro-formaldehyde-aromatic-amido substances may be employed—such as the anhydro-formaldehydes of the toluidins, xylidins, &c.—and the working operations should be changed, as will readily be understood by chemists, so as to best suit each individual case.

Example 4

A. Production of a bisulfite compound from bisulfite of soda, alpha-naphthylamin, and formic aldehyde.—Produce a paste by rubbing up one hundred and forty-five (145) parts of alpha-naphthylamin with fifteen hundred (1,500) parts of an aqueous solution of sulfurous acid containing three (3) per cent of that acid. Now gradually introduce this paste into the result of mixing formic aldehyde and bisulfite of soda, (obtained as described in Example 1,) being careful to prevent the temperature of the mixture from rising above ten (10°) degrees by some means, such as external cooling. The bisulfite compound is formed almost immediately upon mixing.

In place of the above-described paste of naphthylamin I may also employ a concentrated alcoholic solution of naphthylamin.

B, Production of omega-cyan-methyl-alpha-naphthylamin.—Free the bisulfite compound arising from preceding Example 4 A from sulfurous acid and bisulfite of soda as far as practicable by washing with water. Convert it into a paste by rubbing it up with five hundred (500) parts of water, and to this paste add an aqueous solution of seventy (70) parts of potassium cyanid in three hundred (300) parts of water. Digest the whole on a boiling-water bath until the oil-like layer, which forms no longer, increases in volume. This oil-like layer is the desired omega-cyan-methyl-alpha-naphthylamin and solidifies on cooling. It may be collected in the same manner as is the omega-cyan-methyl-anilin of Example 1. The omega-cyan-methyl-alpha-naphthylamin so obtained is practically pure. If desired, it may be purified by recrystallization from a mixture of benzene and ligroin. When purified, it melts at about ninety-eight or ninety-nine (98° or 99°) degrees.

Example 5

Production of omega-cyan-methyl-anthranilic acid.—Dissolve one hundred and thirty-seven (137) parts of anthranilic acid in forty (40) parts of caustic soda dissolved in one thousand (1,000) parts of water. Cool this solution thoroughly by means of ice and gradually add to it seventy-nine (79) parts of formic aldehyde, (containing thirty-nine per cent of the aldehyde,) taking care that the temperature [fols. 27 & 28] does not rise above ten (10°) degrees. Now precipitate the anhydro compound by means of one hundred and fifty (150) parts of hydrochloric acid containing twenty-five (25) per cent of hydrochloric acid; (HCl). Convert the anhydro-formaldehyde-anthranilic acid so obtained into its bisulfite compound, as described in Example 2 A. Filter and press the bisulfite compound thus obtained from one hundred and thirty-seven (137) parts of anthranilic acid, and then rub it up to a paste with one thousand (1,000) parts of water and render the result neutral to litmus-paper by means of carbonate of soda or of bicarbonate of soda. Now gradually add to this clear neutral solution, while maintaining its temperature between forty (40°) and fifty (50°) degrees, a solution of seventy (70) parts of potassium cyanid in two hundred (200) parts of water. The reaction is soon completed. Precipitate the omega-cyan-methyl-anthranilic acid from

the resulting solution by means of a sufficient quantity of hydrochloric acid of suitable strength. The product so obtained is practically pure and is identical with the product of United States Letters Patent No. 662,754, of November 27, 1900.

In place of the potassium cyanid of the preceding examples sodium cyanid may be employed.

What I claim is—

1. The described process of making omega-cyan-methyl derivative of an aromatic amido substance which consists in acting upon a hereinbefore-defined aromatic amido substance with formic aldehyde and an alkali bisulfite and then acting upon this product with a salt of hydrocyanic acid.

2. The described process of making omega-cyan-methyl derivative of an aromatic amido substance which consists in acting upon a hereinbefore-defined anhydro-formaldehyde-aromatic-amido substance with an alkali bisulfite and then acting upon this product with a salt of hydrocyanic acid.

3. The described process of making omega-cyan-methyl derivative of an aromatic amido substance which consists in acting upon a hereinbefore-defined anhydro-formaldehyde-aromatic-amido-substance-alkali bisulfite with a salt of hydrocyanic acid.

4. The described process of making omega-cyan-methyl-anilin which consists in acting upon anilin with formic aldehyde and sodium bisulfite and then acting upon this product with potassium cyanid.

5. The described process of making omega-cyan-methyl-anilin which consists in acting upon anhydro-formaldehyde-anilin with sodium bisulfite and then acting upon this product with potassium cyanid.

6. The described process of making omega-cyan-methyl-anilin which consists in acting upon anhydro-formaldehyde-anilin-sodium bisulfite with potassium cyanid.

In testimony whereof I have hereunto set my hand in the presence of two subscribing witnesses.

Otto J. Graul.

Witnesses: Bernhard C. Hesse, Jacob Adrian.

Corrections in Letters Patent No. 718,340

It is hereby certified that in Letters Patent No. 718,340, granted January 13, 1903, upon the application of Otto J. Graul, of Ludwigshafen-on-the-Rhine, Germany, for an improvement in "Process of Making Cyan-Methyl Derivatives of Aromatic Amids," errors appear in the printed specification requiring correction, as follows: In lines 32, 39, 46, 52, 57, and 62, page 3, the words "The described," commencing each claim, should be stricken out, and the following word "process" should commence with a capital P; and that the said Letters Patent should be read with this correction therein that the same may conform to the record of the case in the Patent Office.

Signed and sealed this 6th day of October, A. D., 1903.

F. I. Allen, Commissioner of Patents. [Seal.]

[fol. 29] EXHIBIT B TO BILL OF COMPLAINT

License No. 19 (Patent)

United States of America

Federal Trade Commission

License to E. I. du Pont de Nemours and Company, of Wilmington, Delaware, under Certain Letters Patent for Intermediates, Dyes, and the Application of Dyes Owned by Enemies or Allies of Enemies

The Federal Trade Commission under authority of and in conformity with the Trading with the Enemy Act and with the Executive Order of October 12, 1917, hereby licenses E. I. du Pont de Nemours and Company, a corporation of the State of Delaware, of Wilmington, Delaware, to make, use and vend within the United States the inventions described in certain United States Letters Patent owned or controlled by enemies or allies of enemies, relating to the manufacture of certain intermediates and dyes and to cause to be made, used and vended, and to carry on and cause to be carried on the processes and inventions of certain United States Letters Patent owned or

controlled by enemies or allies of enemies relating to the application of dyes, for the term of each of the respective patents, unless sooner terminated.

Said United States Letters Patent under which this license is granted are included in a schedule annexed hereto, and it is the purpose and intent of this license to authorize and license the said licensee to use and employ the inventions of the said letters patent and each of them, and [fol. 30] such others (owned or controlled by an enemy or ally of an enemy) whether included in such schedule or not, as may be found desirable, in order to make, use and vend the group of dyes known as Indigo and its Derivatives, and to carry on and cause to be carried on, the processes disclosed and claimed in such letters patent, with respect to such group, and to relieve the licensee of liability for infringement of these and of any letters patent owned or controlled by an enemy or ally of enemy, by reason of the manufacture, use or sale or the carrying on or causing to be carried on of any process of any such letters patent concerning said Indigo and its Derivatives group of dyes, and with respect to the letters patent owned or controlled by an enemy or ally of enemy included in the annexed schedule and any other, whether or not subsequently added thereto as hereinafter provided, which have to do with the application of such dyes to fabrics, and the use of processes by dyers and others who may purchase the products of the licensee, the licensee may, by an appropriate notice on packages, invoices or otherwise, authorize purchasers and users of the said products to use and apply the same, and the licensee shall not thereby be deemed to have violated the provisions hereof forbidding sub-licenses.

The licensee during the continuance of this license shall pay to the Alien Property Custodian semi-annually within thirty days after the 1st day of February and the 1st day of August in each year, a royalty of five per cent (5%) of the net profit derived from the sale of the products included in this license, which sum the Federal Trade Commission has determined is a reasonable royalty, and which shall be the aggregate royalty to be paid by the licensee under all of the said letters patent.

The enumeration of said letters patent in said schedule is provisional and upon application by the licensee other [fol. 31] letters patent may from time to time be added thereto or removed therefrom, but the addition of any letters patent to said schedule or the removal of any letters patent therefrom, or the failure to include therein any letters patent owned or controlled by an enemy or ally of an enemy necessary or desirable to be used in the manufacture, use or sale by the licensee of Indigo and its Derivatives shall not affect this license, the terms thereof or the royalty thereunder.

The licensee shall, during the continuance of this license keep proper accounts and separate books containing full particulars of:

(a) All products made and sold under this license and of the price or prices charged and the amounts received therefor;

(b) All items of cost incurred in the use of such inventions and the manufacture and sale of products made thereunder; and

(c) All other matters and things, which, in the opinion of the Federal Trade Commission, may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such product.

The licensee shall, within 10 days after the first day of February and the first day of August in each year, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall, during the continuance of this license give all information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of the use of such invention, the cost of producing and the price or prices charged by the licensee for the said products, and for that purpose shall, if requested [fol. 32] by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission, at any time or times to

enter upon and inspect any factory or place of business of the licensee in which the use of said invention or the manufacture of the said products shall be carried on and all books, papers and documents of such licensee relating to such use, manufacture and sale.

If any payment under this license shall not be made within one month after the same shall have become due under the provisions herein contained (Whether demand therefor shall have been made or not), or if the licensee shall or shall — attempt to assign or part with the benefit of or grant any sub-license under this license, except as hereinbefore provided, or shall make any default in the performance or observance of any obligation on its part herein contained, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if, after 10 days' notice in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

If, in the opinion of the Federal Trade Commission, the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the subject matter thereof; or

If, in the opinion of the Federal Trade Commission, the licensee has failed to supply to the public the products made under this license at reasonable prices, or

[fol. 33] If, in the opinion of the Federal Trade Commission, the licensee has charged unreasonable or excessive prices for products made under this license; or

If, in the opinion of the Federal Trade Commission, the products made under this license are of unsatisfactory quality, or fail to conform to such rules and standards as may from time to time be prescribed by the Federal Trade Commission or by any competent United States authority (and the licensee shall furnish to the Federal Trade Commission in the manner prescribed by it, and when and as often as required, samples and specimens for inspection, analysis and test); or

Circumstances have arisen, which, in the opinion of the Federal Trade Commission, make it advisable that this license be canceled in whole or in part; Then

The Federal Trade Commission may, in its absolute discretion, terminate and cancel this license in whole or in part, and if canceled and terminated, the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States, and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated January 21, 1918.

Federal Trade Commission, by L. L. Bracken, Secretary.

Attest: C. H. McDonald, Counsel in Charge.

[fol. 34] Accepted and agreed to.

E. I. du Pont de Nemours and Company, Licensee, by Y. du Pont, Vice-President.

License No. 19

Schedule Annexed to and Forming Part of License No. 19 (Patent) to E. I. Du Pont de Nemours and Company under Letters Patent Concerning Indigo and Its Derivatives

Patent No. 680,395, dated August 13, 1901.

To Johannes Pfleger, of Frankfort-on-the-Main, Germany, assignor to Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, of same place.

For "Process of Making Indoxyl Derivatives."

Patent No. 868,294, dated October 15, 1907.

To Robert Schmidlin, of Hochst-on-the-Main, Germany, assignor to Farbwerke vorm. Meister Lucius & Bruning, of Hochst-on-the-Main, Germany, a corporation of Germany.

For "Process of Producing Phenylglycin and Its Homologues."

Patent No. 718,340, dated January 13, 1903.

To Otto J. Graul, of Ludwigshafen-on-the-Rhine, Germany, assignor to Badische Anilin and Soda Fabrik, of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

For "Process of Making Cyan-Methyl Derivatives of Aromatic Amids."

[fol. 35] EXHIBIT C TO BILL OF COMPLAINT

License No. 19 (Patent)

Revision of Royalty

Pursuant to General Order of the Commission dated September 2, 1919, establishing a uniform rate of royalty under all licenses involving dyes and chemicals (not including drugs), License No. 19, dated January 21, 1918, to E. I. du Pont de Nemours & Company, under certain Letters Patent for intermediates, dyes and the application of dyes, such patents being identified in schedule attached to license, is hereby so amended that from and after August 1, 1919, royalty payable thereunder shall be at the rate of 2% of the gross amounts received by the licensee from the sale of the products included in the license.

Dated January 14, 1920.

Federal Trade Commission, by J. P. Yoder, J. P. Yoder, Secretary. (Seal.)

[fol. 36]

Exhibit D to Bill of Complaint

Seizures of Patents and Instruments of Sale as Recorded in United States Patent Office

Seizure					Sale			
No. of patent	Date of order	Date of record	Liber page		Date of sale	Date of record	Liber page	
680,395	Mar. 22, 1919	Mar. 26, 1919	K-106	417	Apr. 10, 1919	Apr. 21, 1919	Y-107	1
					Mar. 1, 1921	Mar. 3, 1921	Q-112	301
868,294	do.	do.	Z-106	301	do.	do.		do.
718,340	Feb. 3, 1919	Feb. 21, 1919	Y-106	133	do.	do.		do.

[fol. 37] EXHIBIT E TO BILL OF COMPLAINT

License No. 19 (Patent)

Cancellation of License

The Federal Trade Commission pursuant to surrender thereof by the licensee hereby cancels and terminates, subject to the terms of the license, the following license heretofore issued to E. I. du Pont de Nemours & Company, under certain Letters Patent for intermediates, dyes and the application of dyes, such patents being identified in schedule attached to license.

Dated September 1, 1920.

Federal Trade Commission, by J. P. Yoder, J. P. Yoder, Secretary. (Seal.)

[fol. 38] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

BILL OF COMPLAINT—Filed June 30, 1922

The plaintiff for its bill of complaint alleges:

I. That plaintiff, Farbwerke vormals Meister Lucius & Brüning, is and was during all the times hereinafter mentioned a corporation organized under the laws of Germany, having its principal place of business at Hoechst-on-the-Main, Germany.

II. That E. I. du Pont de Nemours & Company, a corporation, hereinafter referred to as the licensee, is and was during all the times hereinafter mentioned a corporation organized under the laws of the State of Delaware, and having its principal place of business in Wilmington, in the State of Delaware and the District of Delaware; and that the defendant, Frank White, is Treasurer of the United States.

III. That this Court has jurisdiction under Section 10f of the Act of Congress known as the "Trading with the

[fol. 39] Enemy Act" approved October 6, 1917, and also because this controversy is between a citizen of Germany and a citizen of the State of Delaware.

IV. That the following United States Letters Patent were duly granted to plaintiff as assignee of the inventor under and in accordance with the provisions of the then existing statutes of the United States and Rules of Practice of the United States Patent Office, and that plaintiff has been ever since the grant of the said letters patent, and is now, the owner theerof, to wit:

No. 868,294—for Process of Producing Phenylglycin and its Homologues, dated Oct. 15, 1907, to Robert Schmidlin of Hœchst-on-the-Main, Germany, assignor to Farbwerke vormals Meister Lucius & Bruning, of Hœchst-on-the-Main, Germany, a corportion of Germany.

V. On information and belief that the Federal Trade Commission under the authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act," on January 21, 1918, granted license number 19, to the licensee, to make, use and vend within the United States the invention, described in the said United States Letters Patent; that said license is still in force; that said license required the licensee to pay to the Alien Property Custodian royalties under said license and derived from the sale of the products included in the said licensee and that substantial sums have been paid by the Alien Property Custodian in the Treasury of the United States, as a trust fund for the licensee and for the owner of the said patent, as by said license or duly authenticated copy thereof, ready in Court to be produced, will appear.

[fol. 40] VI. On information and belief, that the licensee thereupon entered upon the use and enjoyment of said license and that substantial sums have been paid by the licensee to the Alien Property Custodian, and deposited by the Alien Property Custodian in the Treasury of the United States, the exact amount being unknown to the plaintiff; and that the licenseee has under said license, made large gains and profits from the manufacture, use and sale of the invention patented by said patent.

VII. That this suit is brought for the recovery from the said licensee for all use and enjoyment of the said pat-

ented invention and to have determined the amount of a reasonable license fee or royalties to be paid by the licensee for the use of said patented invention, and to have an accounting for the same and judgment therefor, and to have an order of the Court directing the Treasurer of the United States to pay to the plaintiff from the fund deposited as aforesaid or by the licensee so far as such deposit will satisfy the said judgment and decree.

Wherefore plaintiff demands that it be adjudged and decreed that the plaintiff is entitled to and do recover from the licensee a reasonable royalty for the use of the said patented invention, to be determined by the Court, and that the Treasurer of the United States be directed to pay to the plaintiff the fund or moneys deposited with him as aforesaid or by the licensee so far as such deposit will satisfy the said judgment, and that plaintiff have judgment against the licensee for any amount of said reasonable license fees or royalties in excess of the funds so deposited by the licensee; that the defendants be decreed to pay the costs of this suit, and that the plaintiff may have [fol. 41] such other and further relief as to this honorable Court may seem meet.

Farbwerke vormals Meister Lucius & Brüning, by (Sgd.) John H. Brickenstein, Attorney in Fact, Washington, D. C. (Sgd.) Chas. F. Curley, (Sgd.) Fraley & Paul, Solicitors for Plaintiff.

In United States District Court

No. 494

[Title omitted]

Bill of Complaint—Filed June 30, 1922

The plaintiff for its bill of complaint alleges:

I. That the plaintiff, Deutsch Gold & Silber Scheide Anstalt vorm. Roessler, is and was during all the times hereinafter mentioned a corporation organized under the laws of Germany, and having its principal place of business at Frankfort-on-the-Main, Germany.

[fol. 42] II. That E. I. du Pont de Nemours & Company, a Corporation, hereinafter referred to as the licensee, is and was during all the times hereinafter mentioned a corporation organized under the laws of the State of Delaware, and having its principal place of business in Wilmington, in the State of Delaware and District of Delaware; and that the defendant, Frank White, is Treasurer of the United States.

III. That this Court has jurisdiction under Section 10f of the Act of Congress known as the "Trading with the Enemy Act" approved October 6, 1917, and also because the matter in controversy exceeds, exclusive of interest and costs, the sum or value of three thousand dollars, and is between a citizen of Germany and a citizen of the State of Delaware.

IV. That the following United States Letters Patent was duly granted to plaintiff as assignee of the respective inventor, under and in accordance with the provisions of the then existing statutes of the United States and Rules of Practice of the United States Patent Office, to wit:

1. No. 680,395, for Process of Making Indigo Derivatives, Johannes Pflyer, Frankfort-on-the-Main, Germany, Assignor to Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, Frankfort-on-the-Main, Germany, dated August 13, 1901.

That the plaintiff has been ever since the grant of the said letters patent, and is now, the owner thereof.

V. That the Federal Trade Commission under the authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act," did thereafter grant license number 19 to the licensee, to make, use and vend within the United States the invention described [fol. 43] in the said United States Letters Patent; that said license is still in force; that said license required the licensee to pay to the Alien Property Custodian a royalty derived from the sale of the products included in the said license; that the sums so paid were to be deposited by the Alien Property Custodian in the Treasury of the United States, as a trust fund for the licensee and for the owner of the said patent.

VI. That the licensee thereupon entered upon the use and enjoyment of said license and that the amount paid by the licensee to the Alien Property Custodian, and deposited by the Alien Property Custodian in the Treasury of the United States, and other amounts due and owing by the licensee are in excess of the sum of ten thousand dollars ($10,000), the exact amount being unknown to the plaintiff.

VII. That this suit is brought for the recovery from the said licensee for all use and enjoyment of the said patented invention and to have determined the amount of a reasonable license fee to be paid by the licensee for the use of said patented invention, and to have an order of the Court directing the Treasurer of the United States to pay to the plaintiff from the fund deposited by the licensee such amount as may be necessary to satisfy the said judgment and decree.

Wherefore plaintiff demands that it be adjudged and decreed that the plaintiff is entitled to recover from the licensee a reasonable royalty for the use of the said patented invention, to be determined by the Court, and that the Treasurer of the United States be directed to pay to the plaintiff out of the moneys deposited with him by the licensee such amount as may be necesary to satisfy the said judgment, and that plaintiff have judgment against [fol. 44] the licensee for any amount in excess of the funds so deposited by the licensee; that the defendants be decreed to pay the costs of this suit, and that the plaintiff may have such other and further relief as to this honorable Court may seem meet.

Deutsche Gold & Silber Scheide Antstalt vorm. Roessler, by (Sgd.) Rudolph R. Oppenheim, Attorney in Fact. (Sgd.) Chas. F. Curley, Solicitor for Plaintiff. (Sgd.) Bouvier Caffey Beale, of Counsel.

IN UNITED STATES DISTRICT COURT

No. 495

[Title omitted]

BILL OF COMPLAINT—Filed June 30, 1922

The plaintiff, for its bill of complaint, alleges:

I. That plaintiff, Badische Anilin- & Soda-Fabrik, is and was during all the times hereinafter mentioned, a corporation organized under the laws of Germany, and having its [fol. 45] principal place of business at Ludwigshafen-on-the-Rhine, Germany.

II. On information and belief, that E. I. du Pont de Nemours & Company, hereinafter referred to as the licensee, is and was during all the times hereinafter mentioned, a corporation organized under the laws of the State of Delaware and having its principal place of business in the City of Wilmington, District of Delaware, and that the defendant, Frank White, is Treasurer of the United States.

III. That this Court has jurisdiction under Section 10 of the Act of Congress known as the "Trading with the Enemy Act," approved October 6, 1917, and also because the controversy is between a citizen of Germany and a citizen of the State of Delaware.

IV. That the following United States Letters Patent were duly granted to plaintiff as assignee of the respective inventors, under and in accordance with the provisions of the then existing Statutes of the United States and rules of practice of the United States Patent Office, and that plaintiff has been ever since the grant of the said letters patent, and is now, the owner thereof; to wit:

(1) No. 718,340, for Process of Making Cyan-Methyl Derivatives of Aromatic Amids, dated January 13, 1903, to Otto J. Graul of Ludwigshafen-on-the-Rhine, Germany, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(2) No. 724,789, for Blue Dye and Process of Making Same, dated April 7, 1903, to Rene Bohn, Mannheim, Ger-

many, assignor to the Badische Anilin- & Soda-Fabrik of [fol. 46] Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(3) No. 739,145, for Anthracene Dye, dated September 15, 1903, to Rene Bohn of Mannheim, Germany, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine Germany, a corporation of Germany.

(4) No. 753,659, for Anthracene Derivative and Process of Making Same, dated March 1, 1904, to Rene Bohn of Mannheim, Germany, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(5) No. 787,859, for Anthracene Compound and Process of Making Same, dated April 18, 1905, to Roland H. Scholl of Karlsruhe, and Oscar Bally of Mannheim, Germany, Assignors to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(6) No. 796,393, for Anthracene Coloring-Matter and Process of Producing the Same, dated August 1, 1905, to Oscar Bally of Mannheim, Germany, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(7) No. 818,992, for Anthracene Dye and Process of Making Same, dated April 24, 1906, to Oscar Bally and Max H. Isler of Mannheim, Germany, assignors to the Badische [fol. 47] Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(8) No. 906,367, for Anthracene Dye and Process of Making Same, dated December 8, 1908, to Oscar Bally of Mannheim and Hugo Wolff of Ludwigshafen-on-the-Rhine, Germany, assignors to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(9) No. 961,612, for Anthracene Compound and Process of Making It, dated June 14, 1910, to Max Henry Isler of Mannheim and Hugo Wolff of Ludwigshafen-on-the-Rhine, Germany, assignors to the Badische Anilin- Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(10) No. 1,003,268, for Anthracene Dye and Process of Making Same, dated September 12, 1911, to Richard Just and Hugo Wolff of Ludwigshafen-on-the-Rhine, Germany, assignors to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(11) No. 1,055,701, for Pigment and Process of Making the Same, dated March 11, 1913 to Rene Bohn of Mannheim, Germany, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

[fol. 48] (12) No. 1,063,173, for Producing Amino-Anthraquinones and Derivatives Thereof, dated May 27, 1913, to Christian Rampini, deceased, by William E. Warland, administrator, of Brooklyn, New York, assignor to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

(13) No. 1,150,863, for Pigment and Making the Same, dated August 24, 1915, to Richard Just of Ludwigshafen-on-the Rhine, Germany and Fritz, Eckhard of Mannheim, Germany, assignors to the Badische Anilin- & Soda-Fabrik of Ludwigshafen-on-the-Rhine, Germany, a corporation of Germany.

V. On information and belief, that the Federal Trade Commission, under the authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act", granted licenses to the licensee on January 21, 1918, numbered 18, 18ª, 19 and 20, to make, use and vend within the United States the inventions described in the said United States Letters Patent, and each of them; that said licenses are still in force; that said licenses required the licensee to pay to the Alien Property Custodian royalties under said licenses and derived from the sale of the products included in the said licenses; that the sums so paid were to be deposited by the Alien Property Custodian in the Treasury of the United States, as a trust fund for the licensee and for the owner of the said patents, as by said licenses, or duly authenticated copies thereof, ready in Court to be produced, will appear.

[fol. 49] VI. On information and belief, that the licensee thereupon entered upon the use and enjoyment of said li-

censes; and that substantial sums have been paid by the licensee to the Alien Property Custodian, and deposited by the Alien Property Custodian in the Treasury of the United States, the exact amount being unknown to the plaintiff; and that the licensee has, under said licenses, made large gains and profits from the manufacture, use and sale of the inventions patented by said patents, and each of them.

VII. That this suit is brought for the recovery from the said licensee for all use and enjoyment of the said patented inventions, and to have determined the amount of reasonable license fees or royalties to be paid by the licensee for the use of said patented inventions, and each of them, and to have an accounting of the same and judgment therefor, and to have an order of the Court directing the Treasurer of the United States to pay to the plaintiff the fund deposited as aforesaid or by the licensee so far as such deposit will satisfy the said judgment and decree.

Wherefore plaintiff demands that it be adjudged and decreed that the plaintiff is entitled to and do recover from the licensee reasonable license fees or royalties for the use of the said patented inventions, and each of them, to be determined by the Court, and that the Treasurer of the United States be directed to pay to the plaintiff the fund or moneys deposited with him as aforesaid or by the licensee so far as such deposit will satisfy the said judgment, and that plaintiff have judgment against the licensee for any amount of said reasonable license fees or royalties in excess of the fund so deposited; that the defendants be decreed to pay the costs of this suit, and that the plaintiff may have such [fol. 50] other and further relief as to this Honorable Court may seem meet.

Badische Anilin- & Soda-Fabrik. (Sgd.) Hanns Wagner, (Sgd.) Karl Holdermann, Attorneys-in-fact. (Sgd.) Choate & Curley, Solicitors for Plaintiff. (Sgd.) Livingston Gifford, of Counsel.

IN UNITED STATES DISTRICT COURT

No. 487

[Title omitted]

ANSWER OF E. I. DU PONT DE NEMOURS AND COMPANY—Filed August 11, 1922.

The defendant, E. I. du Pont de Nemours and Company, answering plaintiff's bill of complaint, says:

[fol. 51] I. Defendant admits paragraph I of plaintiff's bill of complaint.

II. Defendant admits paragraph II of plaintiff's bill of complaint.

III. Defendant admits the issuance of United States Letters Patent Nos. 680,395, 868,294 and 718,340, as alleged in paragraph III of plaintiff's bill of complaint, but defendant is without knowledge as to all other allegations and averments of said paragraph of said complaint.

IV. Defendant admits paragraph IV of said complaint.

V. Defendant admits paragraph V of said complaint.

VI. Defendant admits paragraph VI of said complaint.

VII. Defendant admits paragraph VII of said complaint.

VIII. Defendant is without knowledge as to the correctness of the conclusions stated in paragraph VIII of said complaint.

IX. Defendant admits that prior to the first day of September, 1920, it used and employed certain of the inventions included in said License No. 19 and realized divers proceeds from the sale of products included therein, and avers and says that no amount became due or payable by this defendant under said License No. 19 for any use or employment of the inventions included therein prior to April 10, 1919; that between April 10, 1919, and the first day of September, [fol. 52] 1920, there became due and payable from this defendant to the Alien Property Custodian as royalty in accordance with the terms of said license the sum of sixty-one thousand eight hundred and eighty-four dollars and ninety-

eight cents ($61,884.98), which said sum of sixty-one thousand eight hundred and eighty-four dollars and ninety-eight cents ($61,884.98), has heretofore been paid by this defendant to the Alien Property Custodian and by said Alien Property Custodian deposited with the Treasurer of the United States; that the amount so paid is a fair and reasonable royalty for all use made by this defendant of the inventions prior to September 1, 1920.

X. Defendant answering paragraph X of plaintiff's bill of complaint says that it did not, during the existence of said License No. 19, use any of the additional patents referred to in paragraph X of said bill of complaint.

Wherefore the defendant, having fully answered plaintiff's bill of complaint, prays to be dismissed hence with costs.

E. I. du Pont de Nemours and Company, by (Sgd.) Chas. A. Meade, Vice-President. (Sgd.) J. P. Laffey, Solicitor for Defendant, E. I. du Pont de Nemours and Company.

[fol. 53] IN UNITED STATES DISTRICT COURT

No. 487, No. 492, No. 494, No. 495

[Titles omitted]

ORDER OF CONSOLIDATION—Filed October 6, 1927

[fol. 54] And now, to wit, this sixth day of October, A. D. 1927, in pursuance of a stipulation dated February 10, 1923, and this day filed herein; and upon reading and filing the annexed consent of the solicitors of record for the plaintiffs and defendants in all of the above entitled causes, bearing date October 6th, 1927, it is ordered by the Court as follows:

1. That the above entitled suits, The Chemical Foundation, Inc., plaintiff, against E. I. du Pont de Nemours & Company (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 487, Farb-

werke vormals Meister Lucius & Bruning, plaintiff, against E. I. du Pont de Nemours & Company, (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 492, and Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, plaintiff, against E. I. du Pont de Nemours & Company (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 494, in their entirey, and the above entitled suit of Badische Anilin- & Soda-Fabrik, plaintiff, against E. I. du Pont de Nemours & Company and Frank White, as Treasurer of the United States, defendants, Equity No. 495, to the extent of the issues therein relating to Federal Trade Commission License No. 19, be and they hereby are consolidated.

2. That within twenty days from the date hereof each of the parties defendant in the above suits shall file such mo- [fol. 55] tion, answer or other pleading to each of the said Bills of Complaint, as he or it may desire, or if any bill shall have been already pleaded to by him or it, then within said period he or it may amend such pleading to such extent as he or it may deem necessary to meet the situation created by the consolidation.

3. That when the issues have been joined as between all parties to the said causes as consolidated, the Court shall proceed therewith according to law and rules of Court.

(Sgd.) Hugh M. Morris, J.

And now, October 6th, 1927, the undersigned solicitors of record for the complainants and defendants in the above entitled causes, Nos. 487, 492, 494 and 495, in Equity, hereby consent, subject to the approval of the Court, to the entry of the foregoing order of consolidation, without further notice to them or any of them.

(Sgd.) Wm. G. Mahaffy, Solicitor for The Chemical Foundation, Inc. (Sgd.) Wm. S. Hilles, Solicitor for E. I. du Pont de Nemours & Co. (Sgd.) Chas. F. Curley, Solicitor for Farbwerke vormals Meister Lucius & Bruning. (Sgd.) Chas. F. Curley, Solicitor for Deutsche Gold & Silber Scheide Anstalt vorm. Roessler. (Sgd.) Chas F. Curley, Solicitor for Badische Anilin- & Soda-Fabrik. (Sgd.) David J. Reinhardt, Solicitor for Frank White, as Treasurer of the United States.

eight cents ($61,884.98), which said sum of sixty-one thousand eight hundred and eighty-four dollars and ninety-eight cents ($61,884.98), has heretofore been paid by this defendant to the Alien Property Custodian and by said Alien Property Custodian deposited with the Treasurer of the United States; that the amount so paid is a fair and reasonable royalty for all use made by this defendant of the inventions prior to September 1, 1920.

X. Defendant answering paragraph X of plaintiff's bill of complaint says that it did not, during the existence of said License No. 19, use any of the additional patents referred to in paragraph X of said bill of complaint.

Wherefore the defendant, having fully answered plaintiff's bill of complaint, prays to be dismissed hence with costs.

E. I. du Pont de Nemours and Company, by (Sgd.) Chas. A. Meade, Vice-President. (Sgd.) J. P. Laffey, Solicitor for Defendant, E. I. du Pont de Nemours and Company.

[fol. 53] In United States District Court

No. 487, No. 492, No. 494, No. 495

[Titles omitted]

Order of Consolidation—Filed October 6, 1927

[fol. 54] And now, to wit, this sixth day of October, A. D. 1927, in pursuance of a stipulation dated February 10, 1923, and this day filed herein, and upon reading and filing the annexed consent of the solicitors of record for the plaintiffs and defendants in all of the above entitled causes, bearing date October 6th, 1927, it is ordered by the Court as follows:

1. That the above entitled suits, The Chemical Foundation, Inc., plaintiff, against E. I. du Pont de Nemours & Company (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 487, Farb-

werke vormals Meister Lucius & Bruning, plaintiff, against E. I. du Pont de Nemours & Company, (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 492, and Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, plaintiff, against E. I. du Pont de Nemours & Company (a corporation) and Frank White, as Treasurer of the United States, defendants, Equity No. 494, in their entirey, and the above entitled suit of Badische Anilin- & Soda-Fabrik, plaintiff, against E. I. du Pont de Nemours & Company and FrankWhite, as Treasurer of the United States, defendants, Equity No. 495, to the extent of the issues therein relating to Federal Trade Commission License No. 19, be and they hereby are consolidated.

2. That within twenty days from the date hereof each of the parties defendant in the above suits shall file such mo- [fol. 55] tion, answer or other pleading to each of the said Bills of Complaint, as he or it may desire, or if any bill shall have been already pleaded to by him or it, then within said period he or it may amend such pleading to such extent as he or it may deem necessary to meet the situation created by the consolidation.

3. That when the issues have been joined as between all parties to the said causes as consolidated, the Court shall proceed therewith according to law and rules of Court.

(Sgd.) Hugh M. Morris, J.

And now, October 6th, 1927, the undersigned solicitors of record for the complainants and defendants in the above entitled causes, Nos. 487, 492, 494 and 495, in Equity, hereby consent, subject to the approval of the Court, to the entry of the foregoing order of consolidation, without further notice to them or any of them.

(Sgd.) Wm. G. Mahaffy, Solicitor for The Chemical Foundation, Inc. (Sgd.) Wm. S. Hilles, Solicitor for E. I. du Pont de Nemours & Co. (Sgd.) Chas. F. Curley, Solicitor for Farbwerke vormals Meister Lucius & Bruning. (Sgd.) Chas. F. Curley, Solicitor for Deutsche Gold & Silber Scheide Anstalt vorm. Roessler. (Sgd.) Chas F. Curley, Solicitor for Badische Anilin- & Soda-Fabrik. (Sgd.) David J. Reinhardt, Solicitor for Frank White, as Treasurer of the United States.

[fol. 56] IN UNITED STATES DISTRICT COURT

No. 487

[Title omitted]

MOTION TO DISMISS AND ANSWER OF FRANK WHITE AS TREASURER OF UNITED STATES—Filed November 9, 1927

I

Motion to Dismiss

Now comes the defendant, Frank White, as Treasurer of the United States, and moves to dismiss the bill of complaint, and as grounds for the said motion assigns the following:

(1) It appears affirmatively from the allegations of the bill of complaint that the plaintiff herein is not the owner of the patent mentioned in the bill of complaint, and to use which a license was granted by the Federal Trade Commission under the provisions of Section 10 of the Trading with the Enemy Act within the meaning of the word "owner" as used in Sub-section (f) of Section 10 of the Trading with the Enemy Act as amended.

(2) The plaintiff has not stated facts sufficient to entitle it to equitable relief under Section 10 of the Trading with the Enemy Act as amended.

[fol. 57] II

Answer

And now not waiving the many defects and insufficiencies of the bill of complaint, but insisting upon each and all of the objections thereto hereinbefore set forth, this defendant for his answer to the bill of complaint says:

(1) Answering the averments of paragraph numbered I of the bill of the complaint this defendant admits that Frank White is Treasurer of the United States.

Further answering said paragraph this defendant says that he is without knowledge with respect to the other sep-

arate and several allegations thereof, and therefore demands strict proof thereof.

(2) The averments of paragraph numbered II of the bill of complaint are conclusions of law which this defendant is not required to answer.

(3) This defendant is without knowledge as to the averments of paragraph numbered III of the bill of complaint, and therefore demands strict proof thereof.

(4-5-6-7) This defendant admits the averments of paragraphs numbered IV, V, VI and VII of the bill of complaint.

(8) Answering the averments of paragraph numbered VIII of the bill of complaint this defendant admits that the Alien Property Custodian assigned said letters patent to the plaintiff on or about the dates mentioned in Exhibit D to the bill of complaint, but this defendant denies that [fol. 58] the plaintiff herein is the "owner" of said letters patent within the meaning of Section 10 of the Trading with the Enemy Act.

(9) Answering the averments of paragraph numbered IX of the bill of complaint this defendant says that there was paid to the Alien Property Custodian as royalties under said License No. 19 upon the said three patents by the defendant, the E. I. du Pont de Nemours & Company, the sum of $61,884.98, which was by the Alien Property Custodian paid into the Treasury of the United States, pursuant to the provisions of Section 10 of the Trading with the Enemy Act. This defendant is without knowledge as to what portion of said money represents royalties upon any one of the said patents covered by the said license.

Further answering the said paragraph this defendant says that he is without knowledge as to the other separate and several allegations of said paragraph and therefore demands strict proof thereof.

(10) He is without knowledge as to the averments of paragraph numbered X of the bill of complaint, and therefore demands strict proof thereof.

Wherefore, having fully answered the bill of complaint, this defendant prays that he may be dismissed with his

costs in this behalf expended, and for such other and further relief to which in the premises he may be entitled.

(Sgd.) Leonard E. Wales, United States Attorney, Attorney for Frank White, as Treasurer of the United States, Defendant.

[fol. 59] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

ANSWER OF FRANK WHITE AS TREASURER OF THE UNITED STATES—Filed November 9, 1927

And now not waiving the many defects and insufficiences of the bill of complaint, but insisting upon each and all of the objections thereto hereinbefore set forth, this defendant for his answer to the bill of complaint says:

(1-2) He is without knowledge as to the averments of paragraphs numbered I and II of the bill of complaint, and therefore demands strict proof thereof.

(3) The averments of paragraph numbered III of the bill of complaint are conclusions of law which this defendant is not required to answer.

(4) This defendant is without knowledge as to the averments of paragraph numbered IV of the bill of complaint, and therefore demands strict proof thereof.

[fol. 60] (5-6) Answering the averments of paragraphs numbered V and VI of the bill of complaint, this defendant admits that on or about the twenty-first day of January, 1918, Federal Trade Commission License No. 19 for the use of Patent No. 868,294 was issued to the defendant, E. I. du Pont de Nemours & Company, and that the royalty fixed by the Commission as a reasonable royalty to be paid by the said defendant was 5 per cent. of the net profits derived from the sale of the product covered by the said license. Said license granted to the defendant permission to use two other patents in addition to the patent involved in this suit, namely, Patent No. 680,395, and Patent No. 718,340.

The amount paid to the Alien Property Custodian as royalties under the said license for the use of the said three patents amounted to approximately $61,884.98, and the said money was deposited in the Treasury of the United States. This defendant is without knowledge as to what portion of said money represented royalties paid for the use of Patent No. 680,395. Said license was cancelled by the Federal Trade Commission on September 1, 1920.

Further answering the said paragraphs this defendant says that he is without knowledge as to all the other separate and several allegations thereof, and therefore demands strict proof thereof.

(7) This defendant is without knowledge as to the averments of paragraph numbered VII of the bill of complaint, and therefore demands strict proof thereof.

For further defense to the allegations of the bill of complaint this defendant says:

(8) On or about the twenty-second day of March, 1919, the Alien Property Custodian, after investigation, determined that the plaintiff, the Farbwerke yormals Meister [fol. 61] Lucius & Bruning was an enemy, and that Patent No. 868,294 was owned by, and held for, by, on account of, and for the benefit of the said enemy. Thereupon the Alien Property Custodian seized the said patent subject to the rights of the defendant, the E. I. du Pont de Nemours & Company and H. A. Metz Laboratories, Inc., and subject to the said rights, required said patent to be conveyed, transferred, assigned, and delivered to him. Thereafter and on or about the twenty-sixth day of March, 1919, the Acting Commissioner of Patents accepted the certificates of the seizure and demand of the Alien Property Custodian, and on the same date the Commissioner of Patents received and recorded said seizure in Liber Z-106, page 301 of the Transfers of Patents.

(9) On or about the tenth day of April, 1919, the Alien Property Custodian assigned the said patent to the Chemical Foundation, Inc.

Wherefore, having fully answered the bill of complaint this defendant prays that he may be dismissed with his

costs in this behalf expended, and for such other and further relief to which in the premises he may be justly entitled.

(Sgd.) Leonard E. Wales, United States Attorney, Attorney for Frank White, as Treasurer of the United States, Defendant.

[fol. 62] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

MOTION TO DISMISS AND ANSWER OF E. I. DU PONT DE NEMOURS & COMPANY—Filed January 16, 1928

I

Motion to Dismiss

Now comes the defendant, E. I. du Pont de Nemours & Company, and moves to dismiss the bill of complaint, and as grounds for said motion assigns the following:

I. It appears affirmatively from the allegations of the bill of complaint that the plaintiff herein is not the owner of any of the United States Letters Patent under which a license has been granted to this defendant under the provisions of Section 10 of the "Trading with the Enemy Act" within the meaning of the word "owner" as used in Section 10 (f) of the "Trading with the Enemy Act" as amended.

[fol. 63] II. The plaintiff has not stated facts sufficient to entitle it to equitable relief under Section 10 of the "Trading with the Enemy Act."

II

Answer

This defendant now and at all times hereafter saving and reserving to itself all and all manner of benefits and advantages of exceptions which may be had or taken to the many errors, uncertainties, imperfections and insuffi-

ciencies in the plaintiff's said bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as this defendant is advised that it is material or necessary for it to make answer unto, answering, says:

I. This defendant is without knowledge as to the allegations of paragraph I of said bill of complaint.

II. This defendant admits paragraph II of said bill of complaint.

III. This defendant answering paragraph III of said bill of complaint admits that the plaintiff is a citizen of Germany and that this defendant is a citizen of the State of Delaware, but this defendant denies that this diversity of citizenship confers jurisdiction on this court in this suit.

IV. This defendant is without knowledge as to the truth of the allegations contained in paragraph IV of said bill of complaint that the United States Letters Patent mentioned and described in said paragraph were granted to plaintiff as assignee of the inventor under and in accordance with the provisions of the then existing statutes of the United [fol. 64] States and rules of practice of the United States Patent Office. This defendant denies that plaintiff has been ever since the grant of letters patent and is now the owner thereof, and upon information and belief avers the fact to be that the plaintiff has not since the tenth day of April, 1919, been the owner of any interest in the United States Letters Patent mentioned and described in paragraph IV of the bill of complaint.

V. This defendant admits that the Federal Trade Commission under the authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act," did, to wit, on the twenty-first day of January, 1918, grant to this defendant, by License No. 19, a license, among others, to make, use and vend within the United States the alleged invention described in United States Letters Patent No. 868,294. This defendant denies that said License No. 19 is still in force. This defendant admits that said License No. 19 required it, as licensee, to pay to the Alien Property Custodian royalties under said license, to wit, a royalty of five per cent (5%) of the net profits derived from the sale of products included in said

license, which said amount the Federal Trade Commission determined to be a reasonable royalty and the aggregate royalty to be paid by the licensee under all the letters patent included in said License No. 19.

VI. This defendant admits that after the granting of the Federal Trade Commission License No. 19 this defendant used to a certain extent the invention covered by United States Letters Patent No. 868,294, and that this defendant has paid to the Alien Property Custodian all the royalties tha became due and payable under the terms of said license. Upon information and belief this defendant avers [fol. 65] that the plaintiff has no right or lawful authority to recover the amount so paid by this defendant. This defendant denies that it has made large gains and profits from the manufacture, use and sale of the invention covered by said United States Letters Patent No. 868,294.

VII. This defendant answering paragraph VII of plaintiff's bill of complaint says that it is obvious that the plaintiff is seeking to recover from this defendant for all use and enjoyment of said invention and to have an order of the Court directing the Treasurer of the United States to pay to plaintiff from funds deposited by the licensee such amount as may be necessary to satisfy the said judgment. Upon information and belief this defendant says that the plaintiff has no right or lawful authority to recover for such use as this defendant made of said invention.

Wherefore this defendant, having fully answered the said bill of complaint in so far as it is advised it is material and necessary to be answered unto, denies that said plaintiff is entitled to the relief or any part thereof in the said bill of complaint demanded, or any relief whatsoever, and prays to be hence dismissed with its reasonable charges and costs in its behalf most wrongfully sustained.

E. I. du Pont de Nemours & Company, by (Sgd.) J. P. Laffey, Vice-President. (Sgd.) J. P. Laffey, (Sgd.) Wm. S. Hilles, Solicitors for Defendant, E. I. du Pont de Nemours & Company.

[fol. 66] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

MOTION FOR SUBSTITUTION OF HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, AS PLAINTIFF—Filed April 28, 1928

Now comes Howard Sutherland, as Alien Property Custodian, by his solicitor, and moves that he be substituted as plaintiff in the above case for and instead of Farbwerke vormals Meister Lucius & Bruning, and assigns as his reasons therefor the following:

(1) That by virtue of the seizure by the Alien Property Custodian during the period of the recent war, of Letters Patent No. 868,294 entitled "Process of Producing Phenylglycin and its Homologues," the Alien Property Custodian became the owner thereof and by reason of such seizure said Alien Property Custodian was the only person authorized to bring a suit within one year after the end of the war, as provided in Section 10 (f) of the Trading [fol. 67] with the Enemy Act, as amended, to recover from E. I. du Pont de Nemours & Company, the licensee of the Federal Trade Commission, and from Frank White, as Treasurer of the United States, a reasonable royalty for the use and enjoyment of said patent.

(2) That by reason of Section 19 of the Settlement of War Claims Act of 1928, approved March 10, 1928, the Alien Property Custodian is entitled to be substituted as plaintiff in this case for and instead of Farbwerke vormals Meister Lucius & Bruning.

(3) There is attached hereto and made a part hereof the affidavit of Howard Sutherland, the Alien Property Custodian, in which he states that the Alien Property Custodian duly seized the aforesaid Letters Patent No. 868,294, on March 26, 1919.

(Sgd.) Leonard E. Wales, United States Attorney, Solicitor for Howard Sutherland, as Alien Property Custodian.

Copy of this motion served on the attorney for the plaintiff, Farbwerke vormals Meister Lucius & Bruning, the twenty-eighth day of April, 1928.

[fol. 68] CITY OF WASHINGTON,
District of Columbia, ss:

Howard Sutherland, being first duly sworn, deposes and says:

I am Alien Property Custodian of the United States of America. The records of my office show that on or about the twenty-second day of March, 1919, A. Mitchell Palmer, the then Alien Property Custodian, after investigation, determined that Farbwerke vormals Meister Lucius & Bruning was an enemy not holding a license granted by the President, and that patent No. 868,294 was owned by and held for, by, on account of, and for the benefit of said enemy. Thereupon the Alien Property Custodian seized the said patent and required that it be conveyed, transferred, assigned, and delivered to him. Thereafter on March 26, 1919, the Acting Commissioner of Patents accepted service of the seizure and demand of the Alien Property Custodian, and on the same date the Commissioner of Patents received and recorded said seizure of said patent in Liber Z-106, page 301, of the Transfers of Patents. On or about the tenth day of April, 1919, the Alien Property Custodian assigned said patent to the Chemical Foundation, Inc.

(Sgd.) Howard Sutherland.

Subscribed and sworn to before me this twenty-sevénth day of April, 1928. (Sgd.) Sophie D. Hillman, Notary Public, D. C. My commission expires November 5, 1931. (Seal.)

[fol. 69] IN UNITED STATES DISTRICT COURT

No. 494

[Title omitted]

ANSWER OF FRANK WHITE, AS TREASURER OF THE UNITED STATES—Filed November 9, 1927

And now not waiving the many defects and insufficiencies of the bill of complaint, but insisting upon each and

all of the objections thereto hereinbefore set forth, this defendant for his answer to the bill of complaint says:

(1-2) He is without knowledge as to the averments of paragraphs numbered I and II of the bill of complaint, and therefore demands strict proof thereof.

(3) The averments of paragraph numbered III of the bill of complaint are statements of law which this defendant is not required to answer.

(4) This defendant is without knowledge as to the averments of paragraph numbered IV of the bill of complaint, [fol. 70] and therefore demands strict proof thereof.

(5-6) Answering the averments of paragraphs numbered V and VI of the bill of complaint this defendant admits that on or about the twenty-first day of January, 1918, Federal Trade Commission License No. 19 for the use of Patent No. 680,395 was issued to the defendant, E. I. du Pont de Nemours & Company, and that the royalty fixed by the said Commission as a reasonable royalty to be paid by the said defendant was 5 per cent. of the net profits received from the sale of the product covered by the said license. under date of January 14, 1920, the royalty required to be paid under this license was reduced from 5 per cent. of the net profits to 2 per cent. of the gross amount received from the sale of said product. Said license granted to the defendant permission to use two other patents in addition to the patent involved in this suit, namely, Patent No. 718,340 and Patent No. 868,294. The amount paid to the Alien Property Custodian as royalties under the said license for the use of the said three patents amounted to approximately $61,884.98, and the said money was deposited in the Treasury of the United States. This defendant is without knowledge as to what portion of said money represented royalties paid for the use of Patent No. 680,395. Said license was cancelled by the Federal Trade Commission on September 1, 1920.

Further answering the said paragraphs this defendant says that he is without knowledge as to all the other separate and several allegations thereof, and therefore demands strict proof thereof.

(7) This defendant is without knowledge as to the averments of paragraph numbered VII of the bill of complaint, and therefore demands strict proof thereof.

[fol. 71] For further defense to the allegations of the bill of complaint this defendant says:

(8) On or about March 22, 1919, the Alien Property Custodian, after inv-stigation, determined that the plaintiff, Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, of Frankfort-on-the-Main, Germany, was an enemy, and that Patent No. 680,395 was owned by and held for, by, on account of, and for the benefit of the said enemy. Thereupon the Alien Property Custodian seized the said patent and required the same to be conveyed, transferred, assigned, and delivered to him. On or about the twenty-sixth day of March, 1919, the Acting Commissioner of Patents acknowledged service of the said requirement and seizure of the Alien Property Custodian and on the same date the Commissioner of Patents certified that the seizure of the said patent had been duly recorded in Liber K-106, page 417 of the Transfers of Patents.

(9) On or about the tenth day of April, 1919, the said patent was by the Alien Property Custodian assigned to the Chemical Foundation, Inc.

Wherefore this defendant having fully answered the bill of complaint prays that he be dismissed with his costs in this behalf expended, and for such other and further relief to which in the premises he may be entitled.

(Sgd.) Leonard E. Wales, United States Attorney,
Attorney for Frank White, as Treasurer of the
United States, Defendant.

[fol. 72] IN UNITED STATES DISTRICT COURT

No. 494

[Title omitted]

MOTION TO DISMISS AND ANSWER OF E. I. DU PONT DE NEMOURS & COMPANY—Filed January 16, 1928

I

Motion to Dismiss

Now comes the defendant, E. I. du Pont de Nemours & Company, and moves to dismiss the bill of complaint, and as grounds for said motion assigns the following:

I. It appears affirmatively from the allegations of the bill of complaint that the plaintiff herein is not the owner of any of the United States Letters Patent under which a license has been granted to this defendant under the provisions of Section 10 of the "Trading with the Enemy Act" within the meaning of the word "owner" as used in Section 10 (f) of the "Trading with the Enemy Act" as amended.

[fol. 73] II. The plaintiff has not stated facts sufficient to entitled it to equitable relief under Section 10 of the "Trading with the Enemy Act."

II

Answer

This defendant now and at all times hereafter saving and reserving to itself all and all manner of benefits and advantages of exception which may be had or taken to the many errors, uncertainties, imperfections and insufficiencies in the plaintiff's said bill of complaint contained, for answer thereunto, or unto so much or such parts hereof as this defendant is advised that it is material or necessary for it to make answer unto, answering, says:

I. This defendant is without knowledge as to the allegations of paragraph I of said bill of complaint.

II. This defendant admits paragraph II of said bill of complaint.

II-. This defendant answering paragraph III of said bill of complaint admits that the plaintiff is a citizen of Germany and that the defendant is a citizen of the State of Delaware, but this defendant expressly denies that the amount in controversy in this suit exceeds, exclusive of interest and costs, the sum or value of three thousand dollars.

IV. This defendant is without knowledge as to the truth of the matters and things stated and contained in paragraph IV of said bill of complaint.

V. This defendant admits that the Federal Trade Commission under the authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act," did, to wit, on the twenty-first day of Janu- [fol. 74] ary, 1918, grant to this defendant, by License No. 19, a license, among others, to make, use and vend within the United States the alleged invention described in United States Letters Patent No. 680,395. This defendant denies that said license is still in force, and avers the fact to be that said license expired when the patent expired, to wit, on the thirteenth day of August, 1918. This defendant avers the facts to be that said License No. 19 included in addition to United States Letters Patent No. 680,395 a non-exclusive license to use United States Letters Patent No. 868,294, issued October 15, 1907, and United States Letters Patent No. 718,340, issued January 13, 1903, all relating to the manufacture of indigo, which said license required and obligated the defendant to pay to the Alien Property Custodian a royalty of five per cent. (5%) of the net profit derived from the sale of products included in said License No. 19, which said amount the Federal Trade Commission determined to be a reasonable royalty and the aggregate royalty to be paid by the licensee under all the letters patent included in said license. This defendant denies that any royalties for the use by this defendant of United States Letters Patent No. 680,395 ever became due and payable from this defendant to the Alien Property Custodian under the terms of said License No. 19, as aforesaid, and defendant avers and says that no royalties were paid by this de-

fendant under the terms of said license to the Alien Property Custodian.

VI. This defendant admits that between the twenty-first day of January, 1918, and the thirteenth day of August, 1918, the defendant used to a very limited amount the alleged invention described in United States Letters Patent No. 680,395, but denies that this defendant paid to the Alien Property Custodian any amount whatever for the [fol. 75] use made by this defendant of said invention, for the reason that under the terms of its said license no amount became due and payable.

VII. This defendant, answering paragraph VII of plaintiff's bill of complaint, says it is obvious that the plaintiff is seeking the recovery from this defendant for all use and enjoyment of said invention, and to have an order of the Court directing the Treasurer of the United States to pay to plaintiff from funds deposited by the licensee such amount as may be necessary to satisfy the said judgment, but this defendant says it is without knowledge as to the right of the plaintiff to recover for such use as this defendant made of said invention between the dates aforesaid, and further says that no royalties became due from this defendant to the Alien Property Custodian under the terms of said License No. 19 on account of the use by defendant as aforesaid of the invention contained in United States Letters Patent No. 680,395.

Wherefore this defendant, having fully answered the said bill of complaint in so far as it is advised it is material and necessary to be answered unto, denies that said plaintiff is entitled to the relief or any part thereof in the said bill of complaint demanded, or any relief whatsoever, and prays to be hence dismissed with its reasonable charges and costs in its behalf most wrongfully sustained.

E. I. du Pont de Nemours & Company, by (Sdg.) J. P. Laffey, Vice-President. (Sgd.) J. P. Laffey, (Sgd.) Wm. S. Hilles, Solicitors for Defendant, E. I. du Pont de Nemours & Company.

[fol. 76] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION FOR SUBSTITUTION OF HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, AS PLAINTIFF—Filed April 28, 1928

Now comes Howard Sutherland, as Alien Property Custodian, by his solicitor, and moves that he be substituted as plaintiff in the above case for and instead of Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, and assigns as his reasons therefor the following:

(1) That by virtue of the seizure by the Alien Property Custodian during the period of the recent war, of Letters Patent No. 680,395 entitled "Process of Making Indoxyl derivatives," the Alien Property Custodian became the owner thereof and by reason of such seizure said Alien Property Custodian was the only person authorized to bring a suit within one year after the end of the war, as provided in Section 10 (f) of the Trading with the Enemy Act, as amended, to recover from E. I. du Pont de Nemours & Com-
[fol. 77] pany, the licensee of the Federal Trade Commission, and from Frank White, as Treasurer of the United States, a reasonable royalty for the use and enjoyment of said patent.

(2) That by reason of Section 19 of the Settlement of War Claims Act of 1928, approved March 10, 1928, the Alien Property Custodian is entitled to be substituted as plaintiff in this case for and instead of Deutsche Gold & Silber Scheide Anstalt vorm. Roessler,

(3) There is attached hereto and made a part hereof the affidavit of Howard Sutherland, the Alien Property Custodian, in which he states that the Alien Property Custodian duly seized the aforesaid Letters Patent No. 680,395 on March 26, 1919.

(Sgd.) Leonard E. Wales, United States Attorney, Solicitor for Howard Sutherland, as Alien Property Custodian.

Copy of this motion served on the attorney for the plaintiff, Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, this 28th day of April, 1928.

[fol. 78] CITY OF WASHINGTON,
District of Columbia, ss:

Howard Sutherland, being first duly sworn, deposes and says:

I am Alien Property Custodian of the United States of America. The records of my office show that on or about the 22nd day of March, 1919, A. Mitchell Palmer, the then Alien Property Custodian, after investigation, determined that Dentsche Gold & Silber Scheide Anstalt vorm. Roesler was an enemy not holding a license granted by the President, and that Patent No. 680,395 was owned by and held for, by, on account of, and for the benefit of said enemy. Thereupon the Alien Property Custodian seized the said patent and required that it be conveyed, transferred, assigned, and delivered to him. Thereafter on March 26, 1919, the Acting Commissioner of Patents accepted service of the seizure and demand of the Alien Property Custodian, and on the same date the Commissioner of Patents received and recorded said seizure of said patent in Liber K-106, page 417, of the Transfers of Patents. On or about the 10th day of April, 1919, the Alien Property Custodian assigned said patent to the Chemical Foundation, Inc.

(Sgd.) Howard Sutherland.

Subscribed and sworn to before me this 27th day of April, 1928. (Sgd.) Sophie D. Hillman, Notary Public, D. C. My commission expires November 5, 1931. (Seal.)

[fol. 79] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF FRANK WHITE, AS TREASURER OF THE UNITED STATES—Filed November 9, 1927

And now not waiving the many defects and insufficiencies of the bill of complaint, but insisting upon each and all of the objections thereto hereinbefore set forth, this defendant for his answer to the bill of complaint says:

(1-2) He is without knowledge as to the averments of paragraphs numbered I and II of the bill of complaint, and therefore demands strict proof thereof.

(3) The averments of paragraph numbered III of the bill of complaint are conclusions of law which this defendant is not required to answer.

(4) This defendant is without knowledge as to the averments of paragraph numbered IV of the bill of complaint, and therefore demands strict proof thereof.

(5-6) Answering the averments of paragraphs numbered V and VI of the bill of complaint this defendant says [fol. 80] that on or about the 21st day of January, 1918, the Federal Trade Commission issued License No. 18 to E. I. du Pont de Nemours & Company to use the following patents:

No. 724,789.
No. 739,145.
No. 753,659.
No. 787,859.
No. 796,393.
No. 818,992.
No. 906,367.
No. 961,612.
No. 1,003,268.
No. 1,055,701.
No. 1,063,173.
No. 1,150,863.

The royalties fixed by the said Commission to be paid by the said defendant were 5 per cent of the net profit derived from the sale of products manufactured pursuant to said license. On or about the 14th day of January, 1920, the Federal Trade Commission reduced the amount of said royalties to 2 per cent of the gross amount received by the said defendant from the manufacture and sale of products under said license. There was paid to the Alien Property Custodian and by him deposited in the Treasury of the United States as royalties under said license No. 18, the sum of $10,103.88.

Further answering said paragraph these defendants say that on or about the 21st day of January, 1918, the Federal Trade Commission issued to the defendant, E. I. du Pont de Nemours & Company, license No. 19, covering Patent No. 718,340 as well as Patent No. 680,395 and Patent No. 868,294. Said licenses require the said defendant to pay

to the Alien Property Custodian as royalties 5 per cent of the net profit derived from the sale of the products included in said license. There was paid to the Alien Property Custodian as royalties under the said license upon the said three patents and by the Alien Property Custodian deposited in the Treasury of the United States, the sum of $61,884.98. This defendant is without knowledge as to [fol. 81] what portion of said royalties accrued and was paid for the use of each patent separately. Said licenses were cancelled by the Federal Trade Commission on September 1, 1920.

Further answering said paragraph these defendants say that no royalties were ever paid to the Alien Property Custodian under Licenses Nos. 18-a and 20.

(7) This defendant is without knowledge as to the averments of paragraph numbered VII of the bill of complaint, and therefore demands strict proof thereof.

For further defense to the allegations of the bill of complaint this defendant says:

(8) On or about the 3rd day of February, 1919, the Alien Property Custodian after investigation determined that the Badische Anilin & Soda Fabrik, of Ludwigshafen-am-Rhine, was an enemy, and that Patents Nos. 724,789, 739,145, 753,659, 787,859, 796,393, 818,992, 906,367, 961,612, 1,003,268, 1,055,701, 1,063,173, and 1,150,863 were owned by and held for, by, on account of, and for the benefit of the said enemy. Thereupon the Alien Property Custodian seized said patents and required the same to be conveyed, transferred, assigned and delivered to him. On or about the 21st day of February, 1919, the Commissioner of Patents accepted service of the said seizure and demand of the Alien Property Custodian and the same was recorded in Liber Y-106, page 133, of the Transfers of Patents.

(9) On or about the 10th day of April, 1919, said patents were assigned by the Alien Property Custodian to the Chemical Foundation, Inc.

(10) On or about the 3rd day of February, 1919, the Alien Property Custodian, after investigation, determined [fol. 82] that the Badische Anilin & Soda Fabrik, of Ludwigshafen-am-Rhine, was an enemy, and that Patent No. 718,340, was owned by, and held for, by, on account of, and

for the benefit of the said enemy. Thereupon the Alien Property Custodian seized the said patent and required the same to be conveyed, transfered, assigned and deliverd to him. On or about the 21st day of February, 1919, the Commissioner of Patents accepted service of the said seizure and demand and the same was recorded in Liber Y-106, page 133, of the Transfers of Patents.

(11) On or about the 10th day of April, 1919, the said patent was assigned by the Alien Property Custodian to the Chemical Foundation, Inc.

Wherefore, having fully answered the bill of complaint this defendant prays that he may be dismissed with his costs in this behalf expended, and for such other and further relief to which in the premises he may be justly entitled.

(Sgd.) Leonard E. Wales, United States Attorney,
Attorney for Frank White, as Treasurer of the
United States, Defendant.

[fol. 83] IN UNITED STATES DISTRICT COURT

No. 495

[Title omitted]

MOTION TO DISMISS AND ANSWER OF E. I. DU PONT DE NEMOURS & COMPANY—Filed January 16, 1928

I

Motion to Dismiss

Now comes the defendant, E. I. du Pont de Nemours & Company, and moves to dismiss the bill of complaint, and as grounds for said motion assigns the following:

I. It appears affirmatively from the allegations of the bill of complaint that the plaintiff herein is not the owner of any of the United States Letters Patent under which a license has been granted to this defendant under the provisions of Section 10 of the "Trading with the Enemy Act"

within the meaning of the word "owner" as used in Section 10 (f) of the "Trading with the Enemy Act" as amended.

II. The plaintiff has not stated facts sufficient to entitle it to equitable relief under Section 10 of the "Trading with the Enemy Act."

[fol. 84]

II

Answer

This defendant now and at all times hereafter saving and reserving to itself all and all manner of benefits and advantages of exceptions which may be had or taken to the many errors, uncertainties, imperfections and insufficiencies in the plaintiff's said bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as this defendant is advised that it is material or necessary for it to make answer unto, answering, says:

I. This defendant is without knowledge as to the allegations of Paragraph I of said bill of complaint.

II. This defendant admits Paragraph II of said bill of complaint.

III. This defendant answering Paragraph III of said bill of complaint admits that the plaintiff is a citizen of Germany and the defendant is a citizen of the State of Delaware, but this defendant denies that this diversity of citizenship confers jurisdiction on this Court in this suit.

IV. This defendant is without knowledge as to the truth of the allegations contained in Paragraph IV of said bill of Complaint that the United States Letters Patent mentioned and described in said paragraph were granted to plaintiff as assignee of the respective inventors under and in accordance with the provisions of the then existing statutes of the United States and rules of practice of the United States Patent Office. This defendant denies that plaintiff has been ever since the grant of letters patent and is now the owner thereof, and upon information and belief [fol. 85] avers the fact to be that the plaintiff has not since the tenth day of April, 1919, been the owner of any interest

in the United States Letters Patent mentioned and described in paragraph IV of the bill of complaint.

V. This defendant admits that the Federal Trade Commission under authority vested in it by the President of the United States, pursuant to the "Trading with the Enemy Act," did on the twenty-first day of January, 1918, grant to this defendant, by Licenses No. 18 and No. 19, licenses to make, use and vend within the United States the alleged inventions described in the United States Letters Patent enumerated in Paragraph IV of said bill of complaint. This defendant denies that said licenses are still in force. This defendant says that said Licenses No. 18 and No. 19 obligated the licensee to pay to the Alien Property Custodian a royalty of five per cent. (5%) of the net profit derived from the sale of products included in said Licenses No. 18 and No. 19, which said amount the Federal Trade Commission determined to be a reasonable royalty and the aggregate royalty to be paid by the licensee under all the letters patent included in said licenses.

VI. This defendant admits that after the granting of the Federal Trade Commission Licenses No. 18 and No. 19 this defendant used certain of the inventions covered by some of the United States Letters Patent enumerated in Paragraph IV of the bill of complaint, and that defendant has paid to the Alien Property Custodian all the royalties that became due and payable under the terms of said licenses. Upon information and belief this defendant avers that the plaintiff has no right or lawful authority to recover the amount so paid by this defendant. This defendant denies [fol. 86] that it has made large gains and profits from the manufacture, use and sale of the inventions covered by said letters patent, or any of them.

VII. This defendant answering Paragraph VII of plaintiff's bill of complaint says it is obvious that the plaintiff is seeking to recover from this defendant for all use and enjoyment of said inventions, and to have an order of the Court directing the Treasurer of the United States to pay to plaintiff from funds deposited by the licensee such amount as may be necessary to satisfy the said judgment. Upon information and belief this defendant says that the plaintiff has no right or lawful authority to recover for such use as this defendant made of said inventions.

Wherefore this defendant, having fully answered the said bill of complaint in so far as it is advised it is material and necessary to be answered unto, denies that said plaintiff is entitled to the relief or any part thereof in the said bill of complaint demanded, or any relief whatsoever, and prays to be hence dismissed with its reasonable charges and costs in its behalf most wrongfully sustained.

E. I. du Pont de Nemours & Company, by (Sgd.) J. P. Laffey, Vice President. (Sgd.) J. P. Laffey, (Sgd.) Wm. S. Hiiles, Solicitors for Defendant E. I. du Pont de Nemours & Company

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[fol. 87] IN UNITED STATES DISTRICT COURT

No. 495

[Title omitted]

MOTION FOR SUBSTITUTION OF HOWARD SUTHERLAND, AS ALIEN PROPERTY CUSTODIAN, AS PLAINTIFF—Filed April 28, 1928

Now comes Howard Sutherland, as Alien Property Custodian, by his solicitor, and moves that he be substituted as plaintiff in the above case for and instead of the Badische Anilin & Soda Fabrik, and assigns as his reasons therefor the following:

(1) That by virtue of the seizure by the Alien Property Custodian during the period of the recent war, of Letters Patent No. 718,340, entitled "Process of Making Cyan-Methyl Derivatives of Aromatic Amids," the Alien Property Custodian became the owner thereof and by reason of such seizure said Alien Property Custodian was the only person authorized to bring a suit within one year after the end of the war as provided in Section 10 (f) of the Trading with the Enemy Act, as amended, to recover from E. I. du [fol. 88] Pont de Nemours & Company, the licensee of the Federal Trade Commission, and from Frank White, as Treasurer of the United States, a reasonable royalty for the use and enjoyment of said patent.

(2) That by reason of Section 19 of the Settlement of War Claims Act of 1928, approved March 10, 1928, the Alien Property Custodian is entitled to be substituted as plaintiff in this case for and instead of Badische Anilin & Soda Fabrik.

(3) There is attached hereto and made a part hereof the affidavit of Howard Sutheralnd, the Alien Property Custodian, in which he states that the Alien Property Custodian duly seized the aforesaid Letters Patent No. 718,340 on February 21, 1919.

(Sgd.) Leonard E. Wales, United States Attorney, Solicitor for Howard Sutheralnd, as Alien Property Custodian.

Copy of this motion served on the attorney for Badische Anilin & Soda Fabrik, the twenty-eighth day of April, 1928.

[fol. 89] City of Washington,
District of Columbia, ss:

Howard Sutherland, being first duly sworn, deposes and says:

I am Alien Property Custodian of the United States of America. The records of my office show that on or about the third day of February, 1919, A. Mitchell Palmer, the then Alien Property Custodian, after investigation, determined that Badische Anilin & Soda Fabrik was an enemy not holding a license granted by the President, and that Patent No. 718,340 was owned by and held for, by, on account of, and for the benefit of said enemy. Thereupon the Alien Property Custodian seized the said patent and required that it be conveyed, transferred, assigned, and delivered to him. Thereafter on February 21, 1919, the Commissioner of Patents accepted service of the seizure and demand of the Alien Property Custodian, and on the same date the Commissioner of Patents received and recorded said seizure of said patent in Liber Y-106, page 133, of the Transfers of Patents. On or about the tenth day of April, 1919, the Alien Property Custodian Assigned said patent to the Chemical Foundation, Inc.

(Sgd.) Howard Sutherland.

Subscribed and sworn to before me this twenty-seventh day of April, 1928. (Sgd.) Sophie D. Hillman, Notary Public, D. C. My commission expires November 5, 1931. (Seal.)

[fol. 90] IN UNITED STATES DISTRICT COURT

No. 487

[Title omitted.]

STIPULATION AS TO FACTS—Filed April 30, 1928

For purpose of the trial of the above-entitled suit the following are accepted and agreed to be facts, the proof whereof by any party is dispensed with, each party reserving, however, all proper objections to the introduction of any thereof as evidence:

I. The Chemical Foundation, Incorporated, is and during all the times herein concerned was a corporation and citizen of the State of Delaware, having its principal office in the City of Wilmington in said state.

II. Frank White is the Treasurer of the United States and resides and has his office in the City of Washington, District of Columbia.

III. E. I. du Pont de Nemours and Company is, and during all the times herein concerned was a corporation of the State of Delaware, having its principal place of business at Wilmington in said State.

IV. Letters Patent No. 680,395, entitled "Process of Making Indoxyl Derivatives," were lawfully granted and [fol. 91] issued by the United States Patent Office under date of August 13, 1901, to Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, a corporation organized under the laws of Germany and having its principal place of business at Frankfort-on-the-Main, Germany; the application for said letters patent having theretofore been assigned to said corporation by the inventor, Johannes Pfleger, of Frankfort-on-the-Main, Germany, the instrument of assignment

being dated June 25, 1901, and duly recorded in the United States Patent Office.

V. Letters Patent No. 718,340, entitled "Process of Making Cyan-Methyl Derivatives of Aromatic Amids," were lawfully granted and issued by the United States Patent Office under date of January 13, 1903, to Badische Anilin & Soda Fabrik, a corporation organized under the laws of Germany, and having its principal place of business at Ludwigshafen-on-the-Rhine, Germany; the application for said letters patent having theretofore been assigned to said German corporation by the inventor, Otto J. Graul, of Ludwigshafen-on-the-Rhine, Germany, the instrument of assignment being dated January 17, 1902, and duly recorded in the United States Patent Office.

VI. Letters Patent No. 868,294, entitled "Process of Producing Phenylglycin and its Homologues," were lawfully granted and issued by the United States Patent Office under date of October 15, 1907, to Farbwerke vorm. Meister, Lucius & Bruning, a corporation organized under the laws of Germany, and having its principal place of business at Hochst-on-the-Main, Germany; the application for said letters patent having theretofore been assigned to said German corporation by the inventor, Robert Schmidlin, of Hochst-on-the-Main, Germany, the instrument of assignment being dated May 3, 1906, and duly recorded in the United States Patent Office.

[fol. 92] VII. Each of the aforesaid letters patent was valid and copies of the specications thereof are annexed to the bill of complaint in this suit as "Exhibit A-1," "Exhibit A-2," "Exhibit A-3," and by reference are hereby made a part hereof.

VIII. Under authority of and in conformity with the Act of Congress known as the "Trading with the Enemy Act," and the amendments thereto, and the Executive Orders issued by the President of the United States in pursuance thereof, the Federal Trade-Commission on the twenty-first day of January, 1918, duly granted a certain license under the aforementioned letters patent (known and identified as License No. 19), to said E. I. du Pont de Nemours & Company, the terms and conditions of which license are particu-

larly set forth in the instrument of license, a copy of which is annexed to the bill of complaint in this suit as "Exhibit B" and by reference is hereby made a part hereof.

IX. Said License No. 19 provided among other things, that the said E. I. du Pont de Nemours & Company should pay to the Alien Property Custodian, semi-annually, a royalty of 5 per cent. of the net profits derived from the sale of the products included in said license. On January 14, 1920, the Federal Trade Commission, acting under authority as aforesaid, by order, duly amended said license so as to provide that from on and after August 1, 1919, the royalty payable thereunder should be at the rate of 2 per per cent. of the gross amounts received by the licensee, E. I. du Pont de Nemours & Company, from the sale of the products included in said license as more fully set forth in the said order. A copy of said order is annexed to the bill of complaint in this suit as "Exhibit C" and by reference is hereby made a part hereof.

[fol. 93] X. On September 1, 1920, the Federal Trade Commission, acting under authority as aforesaid, by order duly cancelled and terminated said license, as more fully set forth in said order, a copy of which is annexed to the bill of complaint in this suit as "Exhibit E" and by reference is hereby made a part hereof.

XI. Said license authorized said E. I. du Pont de Nemours & Company to use and employ in addition to the above-mentioned letters patent such other inventions, owned or controlled by an enemy or ally of enemy as might be found desirable in order to make, use and vend the group of dyes known as Indigo and its Derivatives, as is more particularly set forth in said license. The said E. I. du Pont de Nemours & Company did not, under the authority of these provisions of the said license, use or employ any such other inventions.

XII. Subsequent to the issuance of said License No. 19, but prior to its cancellation as aforesaid, the Alien Property Custodian, acting under authority of and in conformity with the said "Trading with the Enemy Act," and the amendments thereto, and the executive orders and proclamations issued by the President of the United States in

pursuance thereof, after investigation duly determined that said Deutsche Gold & Silber Scheide, Anstalt vorm. Roessler, and said Badische Anilin and Soda Fabrik, and said Farwerke vorm. Meister, Lucius & Bruning were severally enemies (as defined in the said "Trading with the Enemy Act" as amended) not holding licenses granted by the President of the United States within the purview of said act as amended and said orders and proclamations, and that the said Letters Patent Nos. 680,395, 718,340 and 868,294, and every right, title, and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or gov-
[fol. 94] ernment, for past infringement thereof respectively belonged to, or were held for, on account of, or on behalf of or for the benefit of said enemies, and duly seized severally the said letters patent and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof; the instrument of seizure covering Letters Patent No. 680,395 and appurtenant rights and benefits being dated March 22, 1919, and recorded March 26, 1919, in the United States Patent Office; the instrument of seizure covering Letters Patent No. 718,340 and appurtenant rights and benefits being dated February 3, 1919, and recorded February 21, 1919, in the United States Patent Office; the instrument of seizure covering Letters Patent No. 868,294 and appurtenant rights and benefits being dated March 22, 1919, and recorded March 26, 1919, in the United States Patent Office; all of which more particularly appears in the said instruments of seizure, copies of which are hereto attached, made a part hereof and marked respectively "Exhibit D-1," "Exhibit D-2," and "Exhibit D-3."

XII. The aforesaid instruments of seizure covering Letters Patent 680,395 and 868,294 and appurtenant rights and benefits (Exhibits D-1 and D-3) disclose that the seizures thereby made were made "subject to the rights of E. I. du Pont de Nemours & Company, Wilmington, Delaware," this language referring solely to such rights under these letters patent as were enjoyed by said E. I. du Pont de Nemours & Company under the aforesaid License No. 19.

XIV. Thereafter, the Alien Property Custodian, acting under like authority and under authority of certain orders dated February 26, 1919, and April 5, 1919, issued by Frank L. Polk as delegate of the President of the United States, [fol. 95] duly sold to said The Chemical Foundation, Incorporated, the aforesaid letters patent (among others), together with all claims and demands for profits and damages recoverable at law or in equity for the past infringement thereof against every person, firm, corporation or government except the Government of the United States of America, and subject only to the provisions of a certain release to the United States of America and to the rights of citizens of the United States or of friendly nations, as set forth in the requirements or demands for certain of the letters patent and other properties concerned; all of which is more particularly set forth in the instrument of assignment dated April 10, 1919, which was duly recorded in the United States Patent Office, and a copy of which with the pertinent excerpts from the schedules thereto attached and referred to therein, is hereto attached, made a part hereof and marked "Exhibit F-1."

A copy of the release from the Alien Property Custodian to the United States of America referred to in the aforementioned instrument dated April 10, 1919, is hereto annexed, made a part hereof and marked "Exhibit F-2."

The only rights of citizens of the United States or of friendly nations referred to in said instrument dated April 10, 1919, herein concerned are those of E. I. du Pont de Nemours & Company, which rights, as above stated, are limited to those this company enjoyed by virtue of said License No. 19.

XV. Thereafter the President of the United States by virtue of authority vested in him by the provisions of said "Trading with the Enemy Act," as amended, by an Executive Order dated February 13, 1920, duly ratified and confirmed the sales made by the Alien Property Custodian to the said The Chemical Foundation, Incorporated, and au- [fol. 96] thorized the Alien Property Custodian to ratify and confirm such sales by the execution and delivery of a suitable instrument of ratification; all of which is more particularly set forth in said Executive Order, a copy of which

is hereto attached, made a part hereof and marked "Exhibit G-1." The Alien Property Custodian, acting under the authority as aforesaid and under the last mentioned Executive Order of the President of the United States, duly ratified and confirmed the said sales to the said The Chemical Foundation, Incorporated, by a suitable instrument of ratification; such instrument being dated March 1, 1921, and duly recorded in the United States Patent Office, and a copy thereof being hereto annexed, made a part hereof and marked "Exhibit G-2."

XVI. Annexed hereto, made a part hereof and marked with the exhibit numbers hereinafter designated are the copies of the following:

Exhibit H-1. Excerpts from Executive Order issued by President Wilson on October 12, 1917.

Exhibit H-2. Executive Order issued by President Wilson on October 29, 1917.

Exhibit H-3. Executive Order issued by President Wilson on February 5, 1918.

Exhibit H-4. Executive Order issued by President Wilson on February 26, 1918.

Exhibit H-5. Excerpts from Executive Order issued by President Wilson on April 11, 1918.

Exhibit H-6. Executive Order issued by President Wilson on July 16, 1918.

Exhibit H-7. Executive Order issued by President Wilson on December 3, 1918.

[fol. 97] Exhibit H-8. Executive Order issued by President Wilson on November 25, 1919.

Exhibit H-9. Executive Order issued by Honorable Frank L. Polk, the Acting Secretary of State, on February 26, 1919.

Exhibit H-10. Executive Order issued by Honorable Frank L. Polk, the Acting Secretary of State, on April 5, 1919.

XVII. The "end of the war" referred to in Section 2 and subsection (f) of Section 10 of the "Trading with the Enemy Act," as amended, occurred on July 2, 1921, and that this suit was filed within the expiration of one year thereafter.

XVIII. It is agreed on the part of said The Chemical Foundation, Incorporated, that it makes no claim for recovery from the said E. I. du Pont de Nemours & Company, as licensee, of any reasonable royalty fixed by the Court for any use and enjoyment by the said E. I. du Pont de Nemours & Company, as licensee, of the said patented inventions covered by the letters patent herein above mentioned prior to April 10, 1919.

(Sgd.) Wm. G. Mahaffy, Solicitor for The Chemical Foundation, Inc. (Sgd.) J. P. Laffey, Solicitor for E. I. du Pont de Nemours & Co. (Sgd.) Leonard E. Wales, (Sgd.) Thomas E. Rhodes, Solicitors for Frank White, as Treasurer of the United States.

[fol. 98] EXHIBIT D-1

Demand Form (3)

Trust No. 12009. Report No. 38127

Patent. Owned by Enemy Subject to the Rights of Others

E. I. du Pont de Nemours & Co., Wilmington, Delaware; Roessler & Haaslacher, 100 Williams Street, New York, New York; to the Commissioner of Patents, Washington, D. C.; to all to whom these presents may come:

I, Frances P. Garvan, Alien Property Custodian, duly appointed, qualified and acting under the provisions of the Act of Congress known as the "Trading with the Enemy Act," approved October 6, 1917, and the amendments thereto and the executive orders and proclamations issued in pursuance thereof, under and by virtue of the authority vested in me as Alien Property Custodian, after investigation, do determine that Deutsche Gold & Silver Scheide Anstalt vorm. Roessler, Frankfort-on-the-Main, Germany, is an enemy not holding a license granted by the President within the purview of said Act as amended and said orders and proclamations; and I do further, after investigation, determine

that certain letters patent of the United States, identified as follows: Patent No. 680,395; Date of issue, Aug. 13, 1901; Title, Process of making Indoxyl derivatives, and [fol. 99] every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, subject to the rights of E. I. du Pont de Nemours & Co., Wilmington, Delaware, belongs to, or is held for, or on account of, or on behalf of, or for the benefit of said enemy, Deutsche Gold & Silver Scheide Anstalt vorm. Roessler, Frankfort-on-the-Main, Germany.

As such Alien Property Custodian, I do seize said letters patent and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, subject to the rights of E. I. du Pont de Nemours & Co., Wilmington, Delaware, and I hereby require that you convey, transfer, assign and deliver the same to me, to be by me, as Alien Property Custodian, held, administered and accounted for as provided by law.

I, as Alien Property Custodian, do request that the Commissioner of Patents record this requirement upon the books and records kept by him, to show the assignment and transfer of letters patent, in respect to said letters patent above mentioned.

This demand is supplementary to any and all requirements and demands heretofore made with respect to said property and is in addition to and without prejudice to such requirements and demands, and shall in no way affect the interests, rights and powers acquired by me as Alien Prop- [fol. 100] erty Custodian by virtue of such previous requirements and demands.

Witness my hand and seal of office this 22nd day of March, 1919.

Francis P. Garvan, Alien Property Custodian.

Service of the foregoing demand is hereby acknowledged this 26th day of March, 1919.

R. F. Whitehead, Acting Commissioner of Patents.

2-392

Department of the Interior, United States Patent Office

Received and Recorded on the 26th day of March, 1919, in Liber K 106, page 417, of Transfers of Patents.

In testimony whereof I have caused the seal of the Patent Office to be hereunto affixed.

James T. Newton, Commissioner of Patents. (Seal.)

EHI.
EZ.
6-1697.

[fol. 101] EXHIBIT D-2

Trust No. G-734. Report No. 33051

Demand of Alien Property Custodian

To: Badische Anilin & Soda-Fabrik,
Ludwigshafen-Am-Rhine, Germany.

Messrs. Hauff & Warland,
41 Park Row,
New York, N. Y.

The Commissioner of Patents,
Washington, D. C.

And all to whom these presents may come:

I, A. Mitchell Palmer, Alien Property Custodian, duly appointed, qualified and acting under the provisions of the Act of Congress known as the "Trading with the Enemy Act," approved October 6, 1917, and the amendments thereto and the executive orders and proclamations issued in pursuance thereof, under and by virtue of the authority vested in me as Alien Property Custodian, after investigation, do determine that the Badische Anilin & Soda-Fabrik, of Ludwigshafen-am-Rhine, Germany, is an enemy not holding a license granted by the President within the purview of said Act as amended and said orders and proclamations; and I do further, after investigation, determine that cer-

tain Letters Patent of the United States and applications for Letters Patent of the United States, identified as follows:

Name	Patent Number	Date
Otto Graul, of Ludwigshafen-am-Rhine, Germany.	718,340	January 13, 1903.

[fol. 102] and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, belong to, or are held for, or on account of, or on behalf of, or for the benefit of said enemy.

As such Alien Property Custodian I do seize said Letters Patent and applications for Letters Patent, and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof; and I hereby require that you convey, transfer, assign and deliver the same to me, to be by me, as Alien Property Custodian, held, administered, and accounted for as provided by law.

I, as Alien Property Custodian, do request that the Commissioner of Patents record this requirement upon the books and records kept by him, to show the assignment and transfer of Letters Patent and applications for Letters Patent, in respect to said Letters Patent and applications for Letters Patent above mentioned, and I further request, that the Commissioner of Patents issue any and all Letters Patent which may be granted upon said applications to me as Alien Property Custodian, my successors in office, or assigns.

This demand is supplementary to any and all requirements and demands heretofore made with respect to said property, and is in addition to and without prejudice to such requirements and demands, and shall in no way affect the interests, rights and powers acquired by me as Alien Prop-

erty Custodian by virtue of such previous requirements and demands.

Witness my hand and seal of office this 3rd day of February, 1919.

A. Mitchell Palmer, Alien Property Custodian.
(Seal.)

[fol. 103] Service of the foregoing demand is hereby acknowledged this 11th day of February, 1919.

Hauff & Warland.

Receipt acknowledged Feb. 20, 1919.

J. T. Newton, Com. Pats.

EXHIBIT D-3

Demand Form (3)

Trust No. 12079. Report No. 38124

Patent Owned by Enemy Subject to the Rights of Others

E. I. Du Pont de Nemours & Company, Wilmington, Delaware; H. A. Metz Laboratories, Inc., New York, N. Y.; to the Commissioner of Patents, Washington, D. C.; to all to whom these presents may come:

I, Francis P. Garvan, Alien Property Custodian, duly appointed, qualified and acting under the provisions of the Act of Congress known as the "Trading With the Enemy Act," approved October 6, 1917, and the amendments thereto and the executive orders and proclamations issued in pursuance thereof, under and by virtue of the authority vested in me as Alien Property Custodian, after investigation, do determine that Farbwerke vorm. Meister, Lucius & Bruning, Mochst-on-the-Main, Germany, is an [fol. 104] enemy not holding a license granted by the President within the purview of said Act as amended and said orders and proclamations; and I do further, after investigation, determine that certain letters patent of the United States, identified as follows: Patent No., 868,294; Date of

issue, Oct. 15, 1907; Title, Process of producing Phenylglycin and its homologues, and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, subject to the right of E. I. Du Pont de Nemours & Company, Wilmington, Delaware, belongs to, or is held for, or on account of, or on behalf of, or for the benefit of said enemy, Farbwerke vorm. Meister, Lucius & Bruning, Hochst-on-the-Main, Germany.

As such Alien Property Custodian, I do seize said letters patent and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, subject to the rights of E. I. Du Pont de Nemours & Company, Wilmington, Delaware, and I hereby require that you convey, transfer, assign and deliver the same to me, to be by me, as Alien Property Custodian, held, administered and accounted for as provided by law.

I, as Alien Property Custodian, do request that the *the* Commissioner of Patents record this requirement upon the [fol. 105] books and records kept by him, to show the assignment and transfer of letters patent, in respect to said letters patent above mentioned.

This demand is supplementary to any and all requirements and demands heretofore made with respect to said property and is in addition to and without prejudice to such requirements and demands, and shall in no way affect the interests, rights and powers acquired by me as Alien Property Custodian by virtue of such previous requirements and demands.

Witness my hand and seal of office this 22nd day of March, 1919.

Francis P. Garvan, Alien Property Custodian.

Service of the foregoing demand is hereby acknowledged, this 26th day of March, 1919.

R. F. Whitehead, Acting Commissioner of Patents.

485.

2-392

Department of the Interior, United States Patent Office

Received and recorded on the 26th day of March, 1919, in Liber Z 106, page 301, of Transfers of Patents.

In Testimony Whereof I have caused the seal of the Patent Office to be hereunto affixed.

James T. Newton, Commissioner of Patents. (Seal.)

Exd.
LLW.
6-1697.

[fol. 106] EXHIBIT F-1

Assignment

Whereas A. Mitchell Palmer, formerly Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the act of Congress known as the "trading with the enemy act", approved October 6, 1917, and the amendments thereto and the Executive orders and proclamations issued in pursuance thereof, did, during his incumbency of said office of Alien Property Custodian by virtue of requirements or demands issued under his hand and seal of office and duly recorded in the United States Patent Office, seize and require to be conveyed to him certain letters patent of the United States and applications for letters patent of the United States which together with other letters patent and applications for letters patent are enumerated in Schedule A hereto attached, together with every right, title, and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation, or government for past infringement of said letters patent, subject to the rights of citizens of the United States or of friendly nations as stated in certain of the requirements or demands relating to said letters patent and applications for letters patent; and

Whereas, I, Francis P. Garvan, was on the 4th day of March, 1919, duly appointed and thereafter duly qualified as Alien Property Custodian in succession of the said A. Mitchell Palmer; and

Whereas I, Francis P. Garvan, as Alien Property Custodian as aforesaid by virtue of requirements or demands issued under my hand and seal of office and duly recorded in the United States Patent Office and in the Office of the Register of Copyrights of the United States, have seized [fol. 107] and required to be conveyed to me certain letters patent of the United States and certain trade-marks and registrations thereof and the business and good will appurtenant thereto, and certain copyrights and the certificates of registration thereof and the works upon which said copyrights were issued and certain rights, interests, and benefits under agreements, all of which are included in Schedules A, B, C, and D, hereto attached, together with every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation, or government for the past infringement of said letters patent, trade-marks, and copyrights, subject to the rights of citizens of the United States or of friendly nations as stated in certain of the requirements or demands relating to said letters patent, applications for letters patent, trade-marks, and registrations thereof, copyrights, and rights, interests, and benefits; and

Whereas by a certain order bearing date the 26th day of February, 1919, concerning the sale, transfer, and release of certain rights under letters patent, trade-marks, and similar rights, determined to belong to, or to be held for, or on account of, or on behalf of, or for the benefit of persons determined to be enemies not holding a license or licenses granted by the President within the purview of the "trading with the enemy act" and the amendments thereto and by another certain order bearing date the 5th day of April, 1919, concerning the sale, transfer, and release of certain copyrights, applications for letters patent, and applications for the registration of trade-marks and copyrights determined to belong to or to be held for, by, on account of or for the benefit of perosns determined to be enemies not holding a license or licenses granted by the

President within the purview of the "trading with the [fol. 108] enemy act" and the amendments thereto, both made by Frank L. Polk under authority of Executive order of December 3, 1918, I am empowered to sell such letters patent, applications for letters patent, trade-marks and registrations thereof, copyrights and rights, interests and benefits under agreements to the Chemical Foundation (Inc.), a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, as I determine relate to the objects and purposes of the said the Chemical Foundation (Inc.), as expressed and defined in its charter; and

Whereas I have determined that the letters patent of the United States, applications for letters patent of the United States, trade-marks and registrations thereof, copyrights and rights, interest and benefits under agreements enumerated in Schedules A, B, C, and D hereto annexed relate to the objects and purposes of the said the Chemical Foundation (Inc.), as expressed and defined in its charter.

Now, therefore, in consideration of the sum of two hundred and fifty thousand dollars ($250,000.00), paid by the said the Chemical Foundation (Inc.), receipt whereof is hereby acknowledged, I, Francis P. Garvan, as Alien Property Custodian as aforesaid, by these presents, do sell, assign, transfer, and set over unto the said the Chemical Foundation (Inc.), its successors and assigns, the whole right, title, and interest acquired by me and by said A. Mitchell Palmer, each as said Alien Property Custodian as aforesaid, in and to:

1. Each of the letters patent of the United States and applications for letters patent of the United States and applications for letters patent of the United States enu- [fol. 109] merated in Schedule A hereto annexed, together with all claims and demands for profits and damages recoverable at law or in equity for the past infringement of said letters patent of the United States against every person, firm, corporation, or government except the Government of the United States of America;

2. Each of the United States copyrights and the certificates of registration thereof and the works upon which

said copyrights were granted, enumerated in Schedule B hereto annexed, together with all claims and demands for profits and damages recoverable at law or in equity for the past infringement of said copyrights against every person, firm, corporation, or government except the Government of the United States of America;

3. Each of the trade-marks, and the registrations thereof enumerated in Schedule C, hereto annexed and the business and good will appurtenant thereto, together with all claims and demands for profits and damages recoverable at law or in equity for the past infringement of said trade-marks against every person, firm, corporation, or government except the Government of the United States of America;

4. All of the rights, interests, and benefits under the agreements enumerated in Schedule C hereto annexed;

All as more specifically described and set forth in the requirements or demands relating to said letters patent of the United States, applications for letters patent of the United States, trade-marks and registration thereof, copyrights and rights, interests and benefits under agreements issued by said A. Mitchell Palmer, as Alien Property Custodian, or by me as Alien Property Custodian without any [fol. 110] reservation or qualification whatsoever, whether by reason of anything contained in the charter or by-laws of the said the Chemical Foundation (Inc.), or otherwise, and subject only to the provisions of a certain release to the United States of America, bearing even date herewith, and to the rights of citizens of the United States or of friendly nations as set forth in the requirements or demands for certain of said letters patent of the United States, applications for letters patent, trademarks and registration thereof, copyrights and rights, interests and benefits under agreements.

I, as Alien Property Custodian as aforesaid, do hereby request the Commissioner of Patents to issue any letters patent granted upon any of the applications for letters patent enumerated in Schedule A hereto attached to the Chemical Foundation (Inc.) as the assignee of my entire right title, and interest therein.

In witness whereof I have hereunto set my hand and seal of office this 10th day of April, 1919.

Francis P. Garvan, Alien Property Custodiaan.

WASHINGTON,
District of Columbia, ss:

On this 10th day of April, 1919, before me came Francis P. Garvan, Alien Property Custodian, duly apponted, qualified, and acting under the provisions of the act of Congress known as the "trading with the enemy act", approved October 6, 1917, and the amendments thereto and the executive orders issued in pursuance thereof, and he duly acknowledged to me that he executed the foregoing instrument as Alien Property Custodian as aforesaid.

Owen B. Gray, Notary Public.

• • • • • • •

[fol. 111] The following Patents & Applications demanded under

Report No. 35,051—Trust No. 734

Badische Anilin & Soda Fabrik Co.

Patent No.	Date	Title
• • •	• • •	• • •
718,340	1/13/03	
• • •	• • •	• • •
868,294	Oct. 15, 1907	Process of Producing Phenylglycin and its Homologues.
• • •	• • •	• • •
680,395	Aug. 13, 1901	Process of making Indoxyl derivatives.

EXHIBIT F-2

Whereas A. Mitchell Palmer, formerly Alien Property Custodian, duly appointed, qualified and acting under the

provisions of the Act of Congress known as the "Trading with the Enemy Act"; approved October 6, 1917, and the amendments thereto and the executive orders and proclamations issued in pursuance thereof, did during his incumbency of said office of Alien Property Custodian by virtue of requirements or demands issued under his hand and seal of office and duly recorded in the United States Patent Office, seize and require to be conveyed to him certain letters patent of the United States and applications for letters patent of the United States which together with other letters patent and applications for letters patent are enumerated in Schedule A hereto attached together with every right title and interest with respect thereto including all damages and profits recoverable at law or in equity from any person firm, corporation or government for past [fol. 112] infringement of said letters patent, subject to the rights of citizens of the United States or of friendly nations as stated in certain of the requirements or demands relating to said letters patent and applications for letters patent; and

Whereas I, Francis P. Garvan, was on the fourth day of March, 1919, duly appointed and thereafter duly qualified as Alien Property Custodian in succession of the said A. Mitchell Palmer; and

Whereas I, Francis P. Garvan, as Alien Property Custodian as aforesaid by virtue of requirements or demands issued under my hand and seal of office and duly recorded in the United States Patent Office and in the Office of the Register of Copyrights of the United States, have seized and required to be conveyed to me certain letters patent of the United States and applications for letters patent of the United States, certain trademarks and the registrations thereof and the business and good-will appurtenant thereto, and certain copyrights and the certificates of registration thereof and the works upon which said copyrights were issued, all of which are included in Schedules A, B and C hereto attached together with every right, title and interest with respect thereto including all damages and profits recoverable at law or in equity from any person, firm, corporation or government for the past infringement of said letters patent, trademarks and copyrights, subject to the rights of citizens of the United States or of friendly nations as stated in certain of the require-

ments or demands relating to said letters patent, applications for letters patent, trademarks, and registrations thereof, and copyrights; and

Whereas by a certain order bearing date the 26th day of February, 1919, concerning the sale, transfer and release of certain rights under letters patent, trade-marks [fol. 113] and similar rights, determined to belong to, or to be held for, or on account of, or on behalf of, or for the benefit of persons determined to be enemies not holding a license or licenses granted by the President within the purview of the "Trading with the Enemy Act" and the amendments thereto and by another certain order bearing date the 5th day of April, 1919, concerning the sale, transfer and release of certain copyrights, applications for letters patent and applications for the registration of trademarks and copyrights determined to belong to or to be held for, by, on account of or for the benefit of persons determined to be enemies not holding a license or licenses granted by the President within the purview of the "Trading with the Enemy Act," and the amendments thereo, both made by Frank L. Polk under authority of executive order of December 3, 1918, I am empowered to sell such letters patent, applications for letters patent, trademarks and registrations thereof, and copyrights to The Chemical Foundation, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, as I determine relate to the objects and purposes of the said The Chemical Foundation, Inc., as expressed and defined in its charter and to release and discharge the United States of America and any department thereof from any and all claims and demands arising from any alleged infringement of said letters patent, trademarks and copyrights; and

Whereas I have determined that the letters patent of the United States, applications for letters patent of the United States, trademarks and registrations thereof and copyrights enumerated in Schedules A, B and C hereto annexed relate to the objects and purposes of the said The Chemical Foundation, Inc., as expressed and defined in its charter.

[fol. 114] Now, therefore, in consideration of the sum of Ten dollars ($10.00) to me in hand paid, receipt whereof is hereby acknowledged, I, Francis P. Garvan, as Alien

Property Custodian as aforesaid, do hereby release and forever discharge the United States of America and all of its departments, from any and all claims and demands for profits and damages recoverable at law or in equity for the past infringement of the letters patent, trademarks and copyrights enumerated in Schedules A, B and C hereto annexed, arising out of the manufacture, use or sale of the inventions of any or all of the said letters patent, or the sale of any article under any or all of said trademarks, or the printing, publication, distribution or sale of the works covered by any or all of said copyrights, by or for the United States of America or of any of its departments, subject, however, to the rights of citizens of the United States or of friendly nations, as more fully set forth in the said requirements or demands issued by the said A. Mitchell Palmer as Alien Property Custodian, or by me, as Alien Property Custodian, relating to certain of said letters patent, trademarks and copyrights.

In witness whereof I have hereunto set my hand and seal of office, this 10th day of Arpil, 1919.

(Sgd.) Francis P. Garvan, Alien Property Custodian.

[fol. 115] EXHIBIT G-1

Executive Order

An order concerning the sale and conveyance of certain choses in action and rights, interests, and benefits under certain agreements determined to belong to, or to be held for, by, on account of, or on behalf of, or for the benefit of persons determined to be enemies, not holding a license or licenses granted by the President within the purview of the "Trading with the Enemy Act" and the amendments thereto

By virtue of the authority vested in me by an act of Congress entitled "An act to define, regulate, and punish trading with the enemy and for other purposes", approved October 6, 1917, known as the "Trading with the Enemy Act", and the amendment to such act embodied in "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30th, 1918,

and prior fiscal years on account of war expenses and for other purposes", approved March 28, 1918, and the amendment to such act embodied in "An Act making appropriations to supply deficiences in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years on account of war expenses and for other purposes", approved November 4, 1918, to make certain orders such as that herein contained, and all other powers and authorities me hereto enabling, I do hereby make the following determination and order:

Whereas by Orders dated February 26, 1919, and April 5, 1919, made by Frank L. Polk under the authority of Executive Order No. 3016 of December 3, 1918, the Alien Property Custodian was authorized to sell and convey to the Chemical Foundation, Inc., a corporation organized and existing under and by virtue of the laws of (118) the State [fol. 116] of Delaware, certain choses in action and rights, interests and benefits heretofore determined to belong to, or to be held for, by, or on account of, or of for the benefit of persons heretofore determined to be enemies; and

Whereas it was the intention of the said Executive Orders to authorize the said Custodian to sell and convey thereunder, all choses in action, rights, interests and benefits under agreements and rights and claims of every character and description including rights to receive moneys by way of royalties or otherwise as compensation for the use of patents trademarks or tradenames, which the Alien Property Custodian may have seized under the provisions of the "Trading with the Enemy Act" as amended, and which he had from time to time determined to relate to the objects and purposes of the said The Chemical Foundation, Inc., as expressed and defined in its charter; and

Whereas doubt has arisen as to the authority of the said Alien Property Custodian to sell and convey to the said The Chemical Foundation, Inc., certain of the said choses in action, rights, interests, benefits under agreements, and rights and claims including rights to receive moneys by way of royalties or otherwise, as compensation for the use of patents, trademarks or tradenames:

Now, therefore, I, Woodrow Wilson, President of the United States of America, do hereby in the public interest, determine and order that the Alien Property Custodian is hereby authorized to sell at private sale, without public or

other advertisement, to The Chemical Foundation, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, at such place and upon such terms and conditions as to the Alien Property Cus- [fol. 117] todian may seem proper, all choses in action, rights, interests and benefits under agreements and rights and claims of every character and description which the Alien Property Custodian may seize or may have seized under the provisions of the "Trading with the Enemy Act" and the amendments thereto now or (119) hereafter enacted and which he from time to time shall determine relate to the objects and purposes of the said The Chemical Foundation, Inc., as expressed and defined in its charter.

The Alien Property Custodian is also hereby authorized in the case of sales heretofore made by him of any property which he is hereby authorized to sell, but as to which his authority to sell the same under the said Orders of February 26, 1919, and April 5, 1919, may be deemed doubtful to confirm and ratify the said sales by the execution and delivery of a suitable instrument of confirmation.

My reasons for the foregoing determination and order are stated in the said orders of Frank L. Polk of the 26th of February, 1919, and the 5th of April, 1919; and in addition thereto, the public interest will be best served by the elimination of any enemy interest adverse to American citizens arising by reason of said choses in action, or rights, interests and benefits under agreements and by the devoting of any payments made by reason of said choses in action or under said agreements by The Chemical Foundation, Inc., to the promotion of the objects stated in its charter.

Done in the District of Columbia this 13th day of February in the year of Our Lord One Thousand Nine Hundred and Twenty, and of the Independence of the United States the One Hundred and Forty-fourth.

Woodrow Wilson.

[fol. 118] EXHIBIT G-2

Whereas, I, Francis P. Garvan, as Alien Property Custodian, and my predecessor in the said office, acting under the authority conferred upon the Alien Property Custodian by the act of Congress known as "trading with the enemy Act,"

approved October 6, 1917, and the amendments thereto, and the Executive orders and proclamations issued in pursuance thereof, did seize, by certain seizure orders, certain letters patent, application therefor, copyrights, certificates of registration thereof, publications upon which such registrations were granted, trade-marks, the good will and business pertaining thereto, rights, interests, and benefits under agreements, and, together with the foregoing certain rights, claims, demands, interests, and choses in action, some of which were connected with or appurtenant to the same; and

Whereas by the said act of Congress and the amendments thereto, and by certain of said orders, dated respectively February 26, 1919, and April 5, 1919, the Alien Property Custodian was authorized to sell to the Chemical Foundation (Inc.), a corporation organized and existing under and by virtue of the laws of the State of Delaware, certain of the said letters patent and other property above referred to; and

Whereas, I, Francis P. Garvan, as Alien Property Custodian, pursuant to said authority vested in me for valuable consideration and at such places and upon such terms and conditions as to myself, as Alien Property Custodian, seemed proper, did sell to said the Chemical Foundation (Inc.), at private sale without public or other advertisement, certain of the said letters patent and other property, which letters patent and other property I, as Alien Property Custodian, [fol. 119] from time to time determine to relate to the objects and purposes of said the Chemical Foundation (Inc.), as expressed and defined in its charter, and in effectuation of the said sales did execute and deliver to said the Chemical Foundation (Inc.) certain assignments in writing, in which assignments the patents, applications therefore, copyrights, and trade-marks assigned are enumerated, and which assignments are dated and recorded as follows:

(1) Assignment dated April 10, 1919, recorded as to patents, applications therefor, and trade-marks in the United States Patent Office on April 21, 1919, in liber Y 107, page 1 of Transfers of Patents, and recorded as to copyrights in the Library of Congress, Copyright Office, on April 15, 1919, in Copyright Office book 81, pages 181 to 186.

(2) Assignment dated May 2, 1919, recorded in the United States Patent Office on May 21, 1919, in liber J 107, page 152 of Transfers of Patents.

(3) Assignment dated May 6, 1919, recorded in the United States Patent Office on May 21, 1919, in liber A 107, page 229 of Transfers of Patents.

(4) Assignment dated May 15, 1919, recorded in the United States Patent Office on May 21, 1919, in liber X 107, page 188 of Transfers of Patents.

(5) Assignment dated June 17, 1919, recorded in the United States Patent Office on June 27, 1919, in liber L 107, page 242 of Transfers of Patents.

(6) Assignment dated June 21, 1919, recorded in the United States Patent Office on July 10, 1919, in liber H 107, page 259 of Transfers of Patents.

(7) Assignment dated October 17, 1919, recorded in the United States Patent Office on November 14, 1919 in liber P 108, page 441 of Transfers of Patents.

(8) Assignment dated December 9, 1919, recorded in the United States Patent Office on December 19, 1919, in liber Z 109, page 69 of Transfers of Patents.

[fol. 120] (9) Assignment dated February 26, 1920, recorded in the United States Patent Office on December 21, 1920.

(10) Assignment dated February 26, 1920, recorded in the United States Patent Office on December 21, 1920.

(11) Assignment dated March 9, 1920, recorded in the United States Patent Office on March 11, 1920, in liber X 108, page 435 of Transfers of Patents.

(12) Assignment dated May 4, 1920, recorded in the United States Patent Office on May 20, 1920, in liber X 109, page 199 of Transfers of Patents.

(13 Assignment dated May 15, 1920, recorded in United States Patent Office on November 1, 1920, in liber E 111, page 319 of Transfers of Patents.

(14) Assignment dated July 20, 1920, recorded in the United States Patent Office on July 27, 1920, in liber B 111, page 66 of Transfers of Patents.

(15) Assignment dated December 21, 1920, recorded in the United States Patent Office on December 21, 1920.

(16) Assignment dated December 21, 1920, recorded in the United States Patent Office on December 21, 1920.

(17) Assignment dated December 21, 1920, recorded in the United States Patent Office on December 21, 1920.

(18) Assignment dated December 21, 1920, recorded in the United States Patent Office on December 21, 1920.

(19) Assignment dated February 19, 1921, recorded in the United States Patent Office on February 23, 1921; and

Whereas it was the intention of myself as Alien Property Custodian and of said the Chemical Foundation (Inc.), in agreeing upon the said sales and in executing, delivering, [fol. 121] and receiving the said assignments that the said assignments should assign and convey to said the Chemical Foundation (Inc.), not only the letters patent and other property specifically referred to in and assigned by the said assignments, but also with such exceptions as are specifically stated in said assignments, all rights, claims, demands, interests, and choses in action of every character and description acquired by the Alien Property Custodian by virtue of the seizures whereby the said letters patent and other property were seized; and

Whereas doubt has arisen as to whether the language of the said assignments is in fact and in law sufficient and effectual to carry out the true intent and purpose aforesaid of the said sales and to assign and convey to said the Chemical Foundation (Inc.), all of the said rights, claims, demands, interests, and choses in action acquired by the Alien Property Custodian as aforesaid; and

Whereas doubt has arisen as to the authority of the Alien Property Custodian to sell and convey to the said the Chemical Foundation (Inc.), certain of the said choses in action, rights, interests, benefits under agreements, and rights and claims, including rights to receive moneys by way of royalties or otherwise, as compensation for the use of patents, trade-marks, or trade-names; and

Whereas in one of the above-mentioned Executive orders, the same being dated February 13, 1920, among other things it is recited that it was the intention of the above-mentioned orders dated February 26, 1919, and April 5, 1919, respectively, to authorize the Alien Property Custo-

dian to sell and convey thereunder, all choses in action, [fol. 122] rights, interests, and benefits under agreements and rights and claims of every character and description including rights to receive moneys by way of royalties or otherwise as compensation for the use of patents, trademarks, or trade-names, which the Alien Property Custodian may have seized under the provisions of the "trading with the enemy act" as amended, and which he had from time to time determined to relate to the object and purposes of said the Chemical Foundation (Inc.), as expressed and defined in its charter; and

Whereas the Alien Property Custodian is authorized by said Executive order dated February 13, 1920, to sell at private sale, without public or other advertisement, to said the Chemical Foundation (Inc.), at such place and upon such terms and conditions as to the Alien Property Custodian may seem proper, all choses in action, rights, interests, and benefits under agreements and rights and claims of every character and description which the Alien Property Custodian may seize or may have seized under the provisions of the "trading with the enemy act" and the amendments thereto, then or thereafter enacted and which he from time to time shall determine relate to the objects and purposes of the said the Chemical Foundation (Inc.), as expressed and defined in its charter; and

Whereas the Alien Property Custodian is also authorized by said Executive Order dated February 13, 1920, in the case of sales theretofore made by him of any property which he is authorized to sell by virtue of said Executive order dated February 13, 1920, but as to which his authority to sell the same under the said orders of February 26, 1919, and April 5, 1919, may be deemed doubtful to con- [fol. 123] firm and ratify the said sales by the execution and delivery by a suitable instrument of confirmation:

Now therefore, I, Francis P. Garvan, as Alien Property Custodian, by virtue of the authority conferred upon me by said "trading with the enemy act," as amended and by the Executive orders, orders and proclamations issued in pursuance thereof, do hereby for the purpose of effectuating the true intent of the parties to said assignments, confirm and ratify the sale and assignment to said the Chemical Foundation (Inc.), of, and do hereby for valuable consideration heretofore received by me, sell, assign, transfer,

and set over to said the Chemical Foundation (Inc.), all property, including (but not thereby limiting the generality of the foregoing) letters patent, rights under letters patent, applications for letters patent and rights thereunder, copyrights, rights under copyrights, certificates of registrations thereof, the publications upon which such registrations were granted, trade-marks, rights under trade-marks, together with the good will and business pertaining thereto including all profits and damages recoverable at law or in equity for past infringement with respect to any and all of the foregoing, choses in action, rights, interests, and benefits under agreements, and rights and claims of every character and description with respect to all of the foregoing, seized by me as Alien Property Custodian, or by my predecessor in such office specifically referred to in and assigned by said assignments, and I do hereby confirm and ratify the sale and assignment of and do hereby sell, assign, transfer and set over to said the Chemical Foundation (Inc.), all choses in action, rights, interests, and benefits under agreements and rights and claims of every character and description growing out of and ap- [fol. 124] purtenant to the ownership of said property, including (but not thereby limiting the generality of the foregoing) rights to receive moneys by way of royalties or otherwise as compensation for the use of patents, copyrights, and trade-marks, and all right, title, and interest in and to the choses in action and the funds referred to in section 10, subsection (f) of the "trading with the enemy act", as amended, acquired by the Alien Property Custodian by virtue of the seizures by which there were seized patents, copy-rights, or trade-marks, under which a license had theretofore been granted in accordance with the provisions of section 10, subsection (c) of said act, as amended, all of which property I, as Alien Property Custodian, from time to time have determined and do hereby determine to relate to the objects and purposes of said the Chemical Foundation (Inc.), as expressed and defined in its charter; the intent and purpose of this instrument being to vest in said the Chemical Foundation (Inc.), every right, title, interest, claim, and demand, save such as are specifically excepted in and by the said assignments, acquired by the Alien Property Custodian by virtue of the seizures whereby the said property was seized.

In witness whereof, I have hereunto set my hand and seal of office this 1st day of March, 1921.

Francis P. Garvan, Alien Property Custodian. (Seal.)

[fol. 125] District of Columbia, ss:

On this 1st day of March, 1921, before me came Francis P. Garvin, Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the act of Congress known as the "trading with the enemy act", approved October 6, 1917, and the amendments thereto, and the Executive orders issued in pursuance thereof, and he duly acknowledged to me that he executed the foregoing instrument as Alien Property Custodian as aforesaid.

Oden B. Gray, Notary Public. My commission expires October 4, 1925. (Seal.)

Exhibit H-1

Executive Order Vesting Power and Authority in Designated Officers and Making Rules and Regulations under Trading with the Enemy Act and Title VII of the Act Approved June 15, 1917

By virtue of the authority vested in me by "An act to define, regulate, and punish trading with the enemy and for other purposes," approved October 6, 1917, and by Title VII of the act approved June 15, 1917, entitled "An act to punish acts of interference with the foreign relations, the neutrality and the foreign commerce of the United States, to punish espionage and better to enforce the criminal laws of the United States and for other purposes" (hereinafter designated as the espionage act), I hereby make the following orders and rules and regulations:

* * * * * * *

[fol. 126] Federal Trade Commission

XVII. I further hereby vest in the Federal Trade Commission the power and authority to issue licenses under such terms and conditions as are not inconsistent with law

or to withhold or refuse the same, to any citizen of the United States or any corporation organized within the United States to file and prosecute applications in the country of an enemy or ally of enemy for letters patent or for registration of trade-mark, print, label, or copyright, and to pay the fees required by law and the customary agents' fees, the maximum amount of which in each case shall be subject to the control of such commission; or to pay to any enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents, trademarks, prints, labels, and copyrights.

XVIII. I hereby vest in the Federal Trade Commission the power and authority to issue, pursuant to the provisions of section 10 (c) of the trading-with-the-enemy act, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse a license to any citizen of the United States, or any corporation organized within the United States, to manufacture or cause to be manufactured a machine, manufacture, composition of matter, or design, or to carry on or cause to be carried on a process under any patient, or to use any trade-mark, print, label, or copyrighted matter owned or controlled by an enemy or ally of enemy, at any time during the present war; and also to fix the prices of articles and products manufactured under such licenses necessary to health of the military and the naval forces of the United States, or the successful prosecution of the war; and to prescribe the fee which may be charged for such license, not exceeding $100 and not ex-
[fol. 127] ceeding 1 per cent of the fund deposited by the licensee with the alien property custodian as provided by law.

XIX. I hereby further vest in the said Federal Trade Commission the executive administration of the provisions of Section 10 (d) of the trading-with-the-enemy act, the power and authority to prescribe the form of, and time and manner of filing statements of the extent of the use and enjoyment of the license and of the prices received and the times at which the licensee shall make payments to the alien property custodian, and the amounts of said payments, in accordance with the trading-with-the-enemy act.

XX. I further hereby vest in the Federal Trade Commission the power and authority, whenever in its opinion the publication of an invention or the granting of a patent may be detrimental to the public safety or defense, or may assist the enemy, or endanger the successful prosecution of the war, to order that the invention be kept secret and the grant of letters patent withheld until the end of the war.

XXI. The said Federal Trade Commission is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

* * * * * * *

Alien Property Custodian

XXIX. I hereby vest in an alien-property custodian, to be hereafter appointed, the executive administration of all the provisions of section 7 (a), section 7 (c), and section (d) of the trading with the enemy act, including all power and authority to require lists and reports, and to extend [fol. 128] the time for filing the same, conferred upon the President by the provisions of said section 7 (a), and including the power and authority conferred upon the President by the provisions of said section 7 (c), to require the conveyance, transfer, assignment, delivery or payment to himself, at such time and in such manner as he shall prescribe, of any money or other properties owing to or belonging to or held for, by or on account of, or on behalf of, or for the benefit of any enemy or ally of an enemy, not holding a license granted under the provisions of the trading with the enemy act, which, after investigation, said alien property custodian shall determine is so owing, or so belongs, or is so held.

XXX. Any person who desires to make conveyance, transfer, payment, assignment or delivery, under the provisions of section 7 (d) of the trading with the enemy act, to the alien property custodian of any money or other property owing to or held for, by or on account of, or on behalf of, or for the benefit of an enemy or ally of enemy, not holding a license granted as provided in the trading with the enemy act, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for pay-

ment, shall file application with the alien property custodian for consent and permit to so convey, transfer, assign, deliver or pay such money or other property to him, and said alien property custodian is hereby authorized to exercise the power and authority conferred upon the President by the provisions of said section 7 (d) to consent and to issue permit upon such terms and conditions as are not inconsistent with law, or to withhold or refuse the same.

XXXI. I further vest in the alien property custodian the executive administration of all the provisions of section 8 (a), section 8 (b), and section 9 of the trading with the [fol. 129] enemy act, so far as said sections relate to the powers and duties of said alien property custodian.

XXXII. I vest in the Attorney General all power and authority conferred upon the President by the provisions of section 9 of the trading with the enemy act.

XXXIII. The alien property custodian, to be hereafter appointed, is hereby authorized to take all such measures as may be necessary or expedient, and not inconsistent with law, to administer the powers hereby conferred; and he shall further have the power and authority to make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of said section 7 (a), section 7 (c), section 7 (d), section 8 (a), and section 8 (b), conferred upon the President by the provisions thereof and by the provisions of section 5. (a), said rules and regulations to be duly approved by the Attorney General.

XXXIV. The alien property custodian, to be hereafter appointed, shall "under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe," have administration of all moneys (including checks and drafts payable on demand) and of all property, other than money which shall come into his possession in pursuance of the provisions if the trading with the enemy act, in accordance with the provisions of section 6, section 10, and section 12 thereof.

Woodrow Wilson.

The White House, 12 October, 1917.

[fol. 130] EXHIBIT H-12

Executive Order Fixing Salary of, and Vesting Certain Power and Authority in, the Alien Property Custodian Appointed under Trading with the Enemy Act

(No. 2744)

By virtue of the authority vested in me by "an Act to define, regulate, and punish trading with the enemy" approved October 6, 1917, I hereby make and establish the following order:

1. I hereby fix the salary of the Alien Property Custodian heretofore appointed at the sum of $5,000. per annum. I direct that said Alien Property Custodian shall give a bond in the amount of $100,000.00, with security to be approved by the Attorney General, and which bond shall be conditioned to well and faithfully hold, administer, and account for all money and property in the United States due or belonging to an enemy or ally of enemy, or otherwise, which may be paid, conveyed, transferred, assigned, or delivered to said Custodian under the provisions of the Trading with the Enemy Act.

2. I hereby authorize and empower the Alien Property Custodian to employ and appoint in the manner provided in the Trading with the Enemy Act in the District of Columbia and elsewhere, and to fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the powers conferred on such Alien Property Custodian by law or by any order of the President heretofore or hereafter made.

3. I hereby vest in the Alien Property Custodian the executive administration of the provisions of Section 12 of the [fol. 131] Trading with the Enemy Act pertaining to the designation of a depositary or depositaries, and requiring all such designated depositaries to execute and file bonds and prescribing the form, amount, and security thereof. And I authorize and empower the *the* Alien Property Custodian to designate any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries located and doing business in the United States, as the de-

positary or depositaries with which said Alien Property Custodian may deposit any stocks, bonds, notes, time drafts, time bills of exchange, or other securities or property (except money, or cheques, or drafts payable on demand) of an enemy or ally of enemy and to prescribe the bond or bonds and the form, amount, and security thereof which shall be given by said depositary or depositaries.

4. The following sums, or so much thereof as may be necessary, are hereby allotted out of the funds appropriated by the Trading with the Enemy Act to the following named officers:

To the Alien Property Custodian	$100,000.00
To the Federal Trade Commission	25,000.00
To the Secretary of the Treasury	15,000.00
To the War Trade Board	25,000.00

to be expended in the administration of the powers vested respectively in them by law or by any order heretofore or hereafter made by me.

5. The powers and authority herein vested in said Alien Property Custodian are in addition to the powers and authority vested in said Alien Property Custodian by the Executive Order of October 12, 1917.

Woodrow Wilson.

The White House, 29 October, 1917.

[fol. 132]

EXHIBIT H-3

Executive Order

(No. 2801)

By virtue of the authority vested in me by an Act to define, regulate, and punish trading with the enemy, approved October 6, 1917, known as the Trading with the Enemy Act, I hereby make the following orders, rules and regulations:

1. Paragraph XXX of the Executive Order dated October 12, 1917, and made by me pursuant to said Act of Congress, is hereby revoked; and in place thereof it is hereby ordered:

XXX. Any person not an enemy, or ally of enemy, who owes to, or holds for or on account of, or on behalf of, or

for the benefit of, an enemy or an ally of enemy, not holding a license granted by or in the exercise of the power and authority of the President under the provisions of said Trading with the Enemy Act any money or other property, or to whom any obligation or form of liability to such enemy, or ally of enemy, is presented for payment, may, having first obtained the consent of the Alien Property Custodian, pay, convey, transfer, assign, or deliver, to or upon the order of the Alien Property Custodian, said money or other property, with like effect as if such payment, conveyance, transfer, assignment or delivery were made in obedience to requirement pursuant to the provisions of Section 7, subsection (c), of said Trading with the Enemy Act.

2. Paragraph XXXI of said Executive Order dated October 12, 1917, is hereby revoked; and in place thereof it is hereby ordered:

[fol. 133] XXXI. I hereby vest in the Alien Property Custodian the executive administration of all provisions of Section 8 (a) and Section 8 (b) of the Trading with the Enemy Act including the power, authority and duty conferred or imposed upon the President by the provisions of said Section 8 (a), and the notice therein required to be given to the President shall be given to the Alien Property Custodian.

Woodrow Wilson.

The White House, 5 February, 1918.

EXHIBIT H-4

Trading with the Enemy Act

Executive order prescribing rules and regulations respecting the exercise of the powers and authority and the performance of the duties of the Alien Property Custodian under the "Trading with the Enemy Act" and prior executive orders pursuant thereto, and respecting the deposit and investment of moneys received by or for the account of the Alien Property Custodian

(No. 2813)

By virtue of the authority vested in me by "An Act to define, regulate, and punish trading with the enemy, and

for other purposes," approved October 6, 1917, known as the "Trading with the enemy act," I hereby make the following orders, rules and regulations.

[fol. 134] (1) Definitions

(a) The word "person", as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

(b) The word "enemy", as used herein (including subsequent definitions) shall be deemed to mean either an "enemy" or "ally of enemy", as the case may be.

(c) The words "right", "title", "interest", "estate", "power", and "authority" of the enemy, as used herein, shall be deemed to mean respectively such right, title, interest, estate, power, and authority of the enemy as may actually exist and also such as might or would exist if the existing state of war had not occurred, and shall be deemed to include respectively the right, title, interest, estate, power and authority in law or equity or otherwise of any representative or of trustee for the enemy or other person claiming under or in the right of, or for the benefit of, the enemy.

(d) Any requirement made by the Alien Property Custodian pursuant to Section 7 subsection "c" of the "Trading with the enemy act" may be known as and called a demand and will be hereinafter referred to as a demand.

(2) Demands Pursuant to Section 7 Subsection "C"

(a) The Alien Property Custodian may make demand for the conveyance, transfer, assignment, delivery, and payment of any money or other property owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy not holding a license granted by me or in the exercise of my power and authority, which the [fol. 135] Alien Property Custodian after investigation shall determine is so owing or so belongs or is so held, together with every right, title, interest, and estate of the enemy in and to such money or other property and every power and authority of the enemy thereover, including (but without limiting the generality of the foregoing) the power and authority to affirm, ratify, approve, revoke, repudiate

or disapprove, in whole or in part, and at any time or times, any power, agency, trust or other relation at the time existing, and also any act or omission theretofore done in the exercise of or pursuant to any power, agency, trust or other relation which the enemy could or might lawfully revoke, repudiate, disaffirm, affirm, ratify or approve, and also including (but without limiting the generality of the foregoing) the power and authority to direct, supervise, and control the future exercise of any power, agency, trust or other relation over such money or other property to the extent that the enemy could or might lawfully direct, supervise, and control the same. Or the Alien Property Custodian may qualify or limit any such demand in such manner to such extent as he may in any case see fit and (without limiting the generality of the power to qualify and limit demands) he may in any case demand all or only such power and authority over the money or other property as he may see fit without demanding any conveyance, transfer, assignment, delivery or payment of such money or other property or any other right, title, interest, or estate therein or thereto except such as may be included within the power and authority demanded in the particular case over such money or other property.

A demand for the conveyance, transfer, assignment, delivery and payment of money or other property unless expressly qualified or limited shall be deemed to include every right, title, interest, and estate of the money in and [fol. 136] to the money or other property demanded as well as every power and authority of the enemy thereover.

(b) Notice of any demand made by the Alien Property Custodian may be given to any person who, alone or jointly with others, may hold or have the custody or control of or may be exercising any right, power, or authority in or over or may be performing any duty concerning the money or other property mentioned in the demand; and, in any notice given, the Alien Property Custodian may require of the person notified the performance of any act or thing within the power of the person notified which may be necessary or proper to make the demand fully effective, or to establish proper acknowledgment, recognition, or evidence of the right, title, interest, and estate of the Alien Property Custodian in and to such money or other property and of the

power and authority of the Alien Property Custodian thereover, and it shall be the duty of any person so notified to perform any act or thing so required. Such notice may be given in person or by mail.

(c) When demand shall be made and notice thereof given, as hereinbefore provided, such demand and notice shall forthwith vest in the Alien Property Custodian such right, title, interest, and estate in and to and possession of the money or other property demanded and such power or authority thereover as may be included within the demand, and the Alien Property Custodian may thereupon proceed to administer such money and other property in accordance with the provisions of the "Trading with the enemy Act" and with any orders, rules, or regulations heretofore, hereby, or hereafter made by me or heretofore or hereafter made by the Alien Property Custodian.

[fol. 137] (3) Powers of Administration

(a) The Alien Property Custodian may appoint and clothe with necessary power and authority such agents, bailees, and attorneys in fact as he may find to be necessary or proper to carry out the provisions of the "Trading with the enemy act" and the the Executive orders, rules, and regulations heretofore, hereby, or hereafter made, and prescribe the duties and fix the compensation of such agents, bailees, and attorneys in fact; and any depositary designated by the Alien Property Custodian may be appointed as such agent, bailee or attorney in fact. And the Alien Property Custodian may require bonds of such agents, bailees and attorneys in fact and fix the penalty and conditions.

(b) The Alien Property Custodian may pay all reasonable and proper expenses which may be incurred in or about securing possession or control of money or other property and in or about collecting dividends, interest, and other income therefrom, and in otherwise protecting and administering the same. So far as may be, all such expenses shall be paid out of, and in any event recorded as a charge against, the estate to which such money or other property belongs.

(c) The Alien Property Custodian may authorize depositaries designated by him and agents, bailees, and attorneys in fact appointed by him to deduct all expenses authorized or approved by the Alien Property Custodian, including the compensation of such depositaries, agents, bailees, and attorneys in fact, from any moneys collected by them and the payment by them to the Alien Property Custodian or into the Treasury of the United States of the net amount remaining in their hands.

[fol. 138] (d) The Alien Property Custodian may exercise any right, power, or authority of the enemy, in, to and over corporate stock, shares or certificates representing beneficial interests owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, including (1) the right to receive all notices issued by the corporation, unincorporated association, company or trustee which issued such stock, shares or certificates, to the holders or owners of similar stock, shares or certificates, (2) the right to exercise all voting power appertaining to such stock, shares or certificates, and (3) the right to receive all subscription rights, dividends and other distributions and payments, whether of capital or income, declared or made on account of such stock, shares or certificates, regardless of whether or not such stock, shares or certificates be in the possession of the Alien Property Custodian and regardless of whether or not such stock, shares or certificates have been transferred to the Alien Property Custodian upon the books of the corporation, association, company or trustee issuing the same.

The Alien Property Custodian may nominate persons who may, when duly elected or appointed, serve as directors, officers or employees of any corporation whose corporate stock or shares, in whole or in part, are owing or belonging to, or are held for, by, on account of, or on behalf of or for the benefit of an enemy.

The Alien Property Custodian may demand the transfer of corporate stock, shares or certificates representing beneficial interests to be made upon the books of any corporation, unincorporated association, company or trustee, issuing the same, into the name of the Alien Property

Custodian or into the name of any depositary designated by the Alien Property Custodian for the account of the Alien Property Custodian, or, in the case of corporate stock [fol. 139] or shares, into the name of any other person for the purpose of qualifying such person to serve as a director of the corporation issuing such corporate stock or shares; and it shall be the duty of any corporation, unincorporated association, company, or trustee to comply with such demand when accompanied by the presentation of the certificates which represent such corporate stock, shares or beneficial interests. Provided that corporate stock or shares transferred into the name of any other person than the Alien Property Custodian or a designated depositary shall be indorsed by such person in blank and delivered to and held by the Alien Property Custodian by or a duly designated depositary.

(e) In respect of moneys, accounts payable, credits, notes or other obligations owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, whether the payment or delivery or the mere transfer and assignment thereof be demanded, the Alien Property Custodian may exercise discretion in enforcing payment, granting indulgence, making extension or accepting security, and in exercising any other right, power or authority of the enemy.

(f) The Alien Property Custodian may sell and deliver any commodity or other tangible property which may be perishable or which may in the preservation thereof involve expense. And the Alien Property Custodian may sell and deliver any rights appurtenant to the ownership of corporate stock, shares or certificates of beneficial interests in cases where such rights would lapse unless exercised within a limited time. The Alien Property Custodian may manage, conduct, and operate any business belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy in cases where the continuation of such [fol. 140] business may seem to be necessary to prevent waste or to protect such business. And the Alien Property Custodian may sell or otherwise dispose of such business

or any part thereof, or the assets or any part thereof, whenever such sale shall seem to be necessary to prevent waste or to protect such business. And in the management, operation, conduct, sale or other disposition of such business the Alien Property Custodian may exercise every right, power and authority of the enemy.

(g) In cases of liquidation of an estate belonging to a partnership, association, or unincorporated company in which an enemy may have an interest, the Alien Property Custodian may exercise every right, power, and authority of the enemy, including the right, power, and authority to sell the interest of the enemy in the event such sale seems necessary to prevent waste or to protect such interest.

(h) All sales made by the Alien Property Custodian may be conducted privately or publicly, with or without advertisement, and on such terms and conditions as to the Alien Property Custodian may seem proper.

In all cases of sales made by the Alien Property Custodian, all reasonable expenses incurred in and about such sales shall be deducted from the proceeds and the net amount remaining paid into the Treasury of the United States.

(i) The Alien Property Custodian is authorized to exercise any power conferred upon him by any license issued by me or in the exercise of the power and authority conferred upon me under the "Trading with the enemy Act" wherever such license involves any act or thing concerning any [fol. 141] money or other property owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy.

(4) Statutory Powers of the Alien Property Custodian

Nothing herein contained is intended, nor shall anything herein contained be construed, to limit the powers conferred upon the Alien Property Custodian by the "Trading with the enemy Act."

(5) Deposit and Investment of Moneys Received by the Alien Property Custodian

There shall be deposited in the Treasury of the United States, through the office of the Secretary of the Treasury—

(a) Any and all moneys (including checks and drafts payable on demand) paid to or received by the Alien Property Custodian pursuant to the "Trading with the enemy Act;"

(b) Any and all moneys (including checks and drafts payable on demand) collected or received by the Alien Property Custodian, as dividends or interest or income that may become due upon any stocks, bonds, notes, time drafts, time bills of exchange, or other securities or property held by the Alien Property Custodian or by any depositary or depositaries designated as provided in said Act for the account of the Alien Property Custodian.

(c) Any and all moneys collected as the proceeds of any and all maturing obligations held by the Alien Property Custodian or by any such depositary or depositaries for the account of the Alien Property Custodian; and

[fol. 142] (d) Any and all moneys paid to or received by the Alien Property Custodian as the proceeds of any sale or sales, made at any time pursuant to such rules and regulations as the President shall prescribe, of any and all property or rights which shall come into the possession of the Alien Property Custodian in pursuance of the provisions of said act:

Provided, However, That the Alien Property Custodian may fix stated periods, not longer than quarter-yearly, for accounting by depositaries, agents, bailees, and attorneys in fact of all moneys received by them, and for the payment thereof by such depositaries, agents, bailees, and attorneys in fact to the Alien Property Custodian, who shall forthwith pay the same into the Treasury of the United States, as provided above, and that checks and drafts payable on demand received by the designated depositaries in payment

of dividends, interest and income property held by or for the account of the Alien Property Custodian may be collected by such depositaries for the account of the Alien Property Custodian, but that all other checks and drafts payable on demand shall be forthwith deposited by the Alien Property Custodian in the Treasury of the United States, as provided above.

Any and all moneys so deposited in the Treasury of the United States, as herein provided, as well as all moneys, if any, which may be paid to the Treasurer of the United States, as provided in section 12 of said act, and all interest, dividends or other income, if any, in respect of any property conveyed, transferred, assigned or delivered to the Treasurer of the United States, as provided in said section 12, shall be credited by the Treasurer of the United States to the Secretary of the Treasury "for account of the Alien Property Custodian."

Any and all money so deposited in the Treasury of the United States, as herein provided, together with any inter- [fol. 143] est or income received from the investment thereof, shall be subject to withdrawal by the Secretary of the Treasury for the purpose of making any payment or payments pursuant to the provisions of said act, and, until so withdrawn, may be invested and reinvested, from time to time, by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness. The bonds and certificates of indebtedness, in which such moneys shall be so invested, shall be held by the Secretary of the Treasury for account of the Alien Property Custodian, subject to the provisions hereof and of said act and to such further orders, rules or regulations as may, from time to time, be prescribed by me.

All other Executive orders heretofore made are hereby amended and modified to such extent as may be necessary to conform with the provisions hereof.

Woodrow Wilson.

The White House, 26 February, 1918.

EXHIBIT H-5

Executive Order Revoking Power and Authority in Designated Officers under the Trading with the Enemy Act

(No. 2837)

By virtue of the power and authority vested in me by "An Act to define, regulate, and punish trading with the enemy and for other purposes," approved October 6, 1917, I hereby make the following orders and rules and regulations:

* * * * * * *

[fol. 144] Federal Trade Commission

II. I hereby revoke the power and authority vested in the Federal Trade Commission by Section XVII of the Executive Order of October 12, 1917, to issue licenses to any citizen of the United States or any corporation organized within the United States, to file or prosecute applications in the country of an enemy or ally of enemy for letters patent or for registration of trade-mark, print, label or copyright, and to pay any fees or agents' fees in connection therewith; or to pay to any enemy or ally of enemy any tax, annuity or fee in relation to patent, trade-mark, prints, labels and copyrights; and no such license shall be granted until further order.

Woodrow Wilson.

The White House, 11 April, 1918.

EXHIBIT H-6

Executive Order Prescribing Additional Rules and Regulations and Making Certain Determinations Respecting the Exercise of the Powers and Authority and the Performance of the duties of the Alien Property Custodian

(No. 2916)

By virtue of the authority vested in me by "An Act to define, regulate, and punish trading with the enemy, and

for other purposes," approved October 6, 1917, known as the "Trading with the Enemy Act," as amended by "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and eighteen, and prior fiscal years, [fol. 145] on account of war expenses and for other purposes," approved March 28, 1918, I hereby make the following orders, rules and regulations, and determinations.

Definitions

1. The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

2. The word "enemy," as used herein, shall be deemed to mean either an "enemy" or "ally of enemy," as the case may be.

Powers of Management and Administration Including Sale or Other Disposition

The Alien Property Custodian shall have power, and he is authorized and directed, to hold, manage, administer, protect, preserve, control and sell or otherwise dispose of, in accordance with the following rules and regulations, any and all property other than money which has been or shall be conveyed, transferred, assigned, delivered, and/or paid over to him pursuant to the provisions of the Trading with the Enemy Act as amended and the Executive proclamations and orders issued pursuant thereto or which has been or shall be required so to be conveyed, transferred, assigned, delivered and/or paid over to him.

1. The Alien Property Custodian shall have the power and authority to do any and all things reasonable and proper in or about the custody, management, administration, protection, preservation, and control of any such property according to the nature and character of the property and the attendant circumstances, including (but with-[fol. 146] out limiting the generality of the foregoing) the power and authority to collect all bills, notes, accounts,

dividends, interest, rents, royalties, annuities and other receivables, and income and profits and accumulations and distribution of principal or income, to pay all rents, royalties, interest, and other accounts and liens or charges; to make repairs, additions and alterations to property, whether real or personal; to rent, lease or otherwise grant the use or right to use or occupy propety of any kind; to insure property against loss, and to cancel or surrender insurance policies and collect return premiums and surrender values, and to do any other act or thing with respect to insurance or insurance policies; to grant by lease, license or otherwise, the right to use or other rights under or in respect to patents, copyrights, trade marks, trade secrets and other similar rights; to vote in person or by proxy shares of stock or other beneficial interest in corporations, unincorporated associations, companies or trusts upon any questions at all times and upon all matters upon which any owner of such stock or other beneficial interest shall have the right to vote; including the power and authority to vote for or against and to take part in any sale, dissolution, consolidation, amalgamation or reorganization of any sort, of any such corporation, unincorporated association, company or trust, or of its assets, or any part thereof, and to exercise any rights or privileges that may be or become appurtenant to the ownership of such stock or other beneficial interest with like force and effect and under like circumstances in all respects as though the absolute owner thereof, to give any notices and file any papers or writings of any kind, proper or necessary for the creation, perfection, protection, liquidation or otherwise in respect of any claims, demands, choses-in-action or other rights of any [fol. 147] kind, and to settle, compromise and adjust claims, demands and choses-in-action; to intervene in any suit or proceeding and to file and maintain claims, demands and suits of all kinds in or before any court, board, commission or other body; to determine and pay all reasonable and proper expenses incurred in or about or with respect of the exercise of any of the powers and authority vested in the Alien Property Custodian or any depositary for him, including expenses that may be incurred in or about securing possession, custody or control of any such property,

and including also taxes and other charges heretofore or hereafter lawfully assessed upon or against such property by any body politic; provided that this shall not be construed to require the payment of any stamp or other taxes upon or on account of conveyance, transfer, assignment or delivery of property to the Alien Property Custodian or to any agent, attorney, bailee, nominee or depositary for him; and provided further that this shall not in any way affect the power of the Commissioner of Internal Revenue or any regulations made by him or under his authority.

2. Whenever any such money or other propetry or any part or parcel thereof is or shall be subject to any claim of lien, charge or incumbrance, or is or shall be held or retained adversely to the Alien Property Custodian or to any requirement with respect to such money or other property made by him, the Alien Property Custodian may compromise or settle such controversy and pay any such claim in any way that he shall decide to be proper and as though he were the absolute owner of the money or other property involved; and he shall have the power and authority to make any payment or payments necessary and to execute and deliver any instruments or writings necessary and proper to effect or evidence the same.

[fol. 148] 3. Whenever any such property or any part or parcel thereof shall be used or employed in the conduct or other operation of a mine, plant, factory, railroad or other transportation facility, warehouse, merchantile or trading establishment or any sort of a going business or undertaking, the Alien Property Custodian, in addition to the rights, powers and authority elsewhere herein conferred upon him, in respect of the property so used or employed, may continue the conduct or other operation of such business or undertaking; and for such purpose he shall have the right, power and authority to employ and discharge agents, attorneys, servants and other employees; to buy and sell supplies, materials and commodities required or necessary for the conduct of such business, or dealt in or handled thereby, or mined, produced, manufactured or created by it; to take out insurance; to require money owing by banks, trust companies or other depositaries on special or general deposit to be paid to him or upon his order; to collect debts and other receivables owing to the

said business or undertaking or to the former enemy owner or owners thereof and created out of or by the operation of such business or undertaking, and also debts, accounts and other receivables accruing or arising out of the conduct or other operation of such business or undertaking, by the Alien Property Custodian or under his direction or authority; to pay the wages and salaries of agents, attorneys, servants and other employees, and rents, royalties, and other current accounts and liabilities; to intervene in any suit or action pending in any court or before any board, commission or other body, in which such business or undertaking or any of the property or assets thereof shall be involved or concerned and to prosecute or defend, as the case may be; to file, prosecute and maintain in the name of [fol. 149] the Alien Property Custodian or otherwise as may be proper; any claim or suit arising out of or based upon transactions had prior or subsequent to the time when such property was conveyed, transferred, assigned, delivered and/or paid over to the Alien Property Custodian or was required so to be, but growing out of the conduct or operation of such business or undertaking or any other use, custody, control or management of any property or assets thereof; and generally to manage, administer, preserve, conduct, operate and control such business or undertaking and any or all parts or parcels and assets thereof as though the absolute owner, either in the name of the Alien Property Custodian or otherwise as he shall determine.

4. The Alien Property Custodian may appoint agents, attorneys, bailees, depositaries and/or managers who, under his direction and control and within the limits of the authority conferred by him, shall be authorized and directed to hold, manage, administer, protect, preserve and otherwise control property conveyed, transferred, assigned, delivered or paid over to him or required so to be, or any part or parcel thereof; and they may be authorized and directed to continue the conduct or other operation of any going business or other undertaking which the Alien Property Custodian himself, as provided elsewhere herein, could continue. Such agents, attorneys, bailees, depositaries and managers shall have and exercise the rights, powers and authority which shall be from time to time conferred upon him or them by the Alien Property Custodian;

and such rights, powers and authority may be enlarged, restricted or revoked by the Alien Property Custodian at any time and without giving any notice or reason therefor; and the remuneration of all such agents, attorneys, bailees, [fol. 150] depositaries and managers shall be fixed by the Alien Property Custodian and may be increased or reduced at any time.

5. The Alien Property Custodian shall have full power and discretion with respect to property to be sold, and may sell any property or properties as an entirety or in such groups or parcels and at such time or times as he shall determine, and without reference to the previous enemy or ally of enemy ownership thereof. Whenever any such property shall be used or employed in the conduct or other operation of any mine, plant, factory, railroad or other transportation facility, mercantile establishment or any sort of going business or undertaking the Alien Property Custodian may sell such property as a going business or undertaking and may include not only the tangible property but any and all patents, trade marks, trade names, good will and other intangible rights and assets; and any number of such going businesses or undertakings may be sold together as above specified.

6. Whereas, said Trading With the Enemy Act as amended provides that "any property sold, except when sold to the United States, shall be sold only to American citizens at public sale to the highest bidder, after public advertisement of the time and place of sale, which shall be where the property or a major portion thereof is situated, unless the President, stating the reasons therefor in the public interest shall otherwise determine."

Now therefore I do thus determine otherwise as follows:

(a) Shares of stock or other beneficial interest in a corporation, unincorporated association, company or trust, and claims, receivables and intangibles of all kinds may be advertised and sold wherever the Alien Property Custodian shall determine; and it shall be immaterial whether such [fol. 151] shares of stock or other beneficial interest and such claims, receivables and intangibles be represented or evidenced by certificates or instruments or writings of any kind, and whether the Alien Property Custodian shall or

shall not have possession or control thereof in the event that the same shall be thus represented or evidenced.

(b) Any corporation incorporated within and under the authority of the laws of any state or territory of the United States or of any of its insular possessions shall be allowed to bid at any sale of any such property, but the Alien Property Custodian shall have the right to exclude from bidding at any such sale and/or from purchasing or otherwise acquiring property from him directly or indirectly, any corporation which he shall after investigation determine to be controlled, managed or operated wholly or mainly by or for the account or benefit of a person or persons not a citizen or citizens of the United States or of its insular possessions.

(c) The Alien Property Custodian, upon order of the President stating the reasons therefor, shall have the right to reject all bids for any property thus sold and to resell such property at public sale or otherwise as the President may direct; but the Alien Property Custodian may at or before any sale, by public announcement or by publication, fix a period after the expiration of which the right thus to reject all bids and to resell such property will not be exercised.

My reasons for the foregoing determinations in the public interest are:

(a) That such sales may be made at the place of favorable demand and under the best circumstances to secure the market price therefor.

[fol. 152] (b) That bidders able to purchase and pay for the properties to be sold may be secured.

(c) That the powers of sale given to the Alien Property Custodian may be effectively exercised by him.

7. Any property sold by the Alien Property Custodian either at public or private sale may be sold for cash or upon credit; and in the latter event such security for the payment of that portion of the purchase price remaining unpaid may be taken as he shall deem proper in the premises. He shall be authorized to set a minimum or upset price upon any property offered for sale by him; to fix

and prescribe the terms and conditions upon which bids will be received; to determine generally and specially qualifications to be met by persons offering to bid; to require deposits from prospective bidders; to determine generally or specially the nature and extent of information concerning any property or properties offered or to be offered for sale which shall be given prospective bidders, and the inspection thereof which shall be allowed; to have made auditor's reports and appraisals of property or properties offered or to be offered for sale; and to make and establish general and special terms and conditions to govern any and all sales to be made by him. Any property or properties thus sold may be sold subject to or free from any or all debts, claims, obligations and liabilities of all kinds created or arising out of or in respect of, any such property or properties or the conduct or other operation of any such business or other undertaking by the Alien Property Custodian or otherwise; and subject to or free from liens, charges or incumbrances; and payment of such debts, claims, obligations, liabilities and liens, charges and incumbrances, and of all expenses of such sale or sales may [fol. 153] be made out of the proceeds from such sale or sales, or may be required to be made or assumed by the purchaser, as the Alien Property Custodian shall determine.

8. All costs and expenses incurred by reason of or in respect of, and all claims and demands of every kind, character and description based upon or arising out of, the custody, management, administration, protection, preservation and control of any such property and the conduct or other operation of any such going business or other undertaking and the sale or other disposition of any such property, shall be limited to and paid or satisfied out of only the property or business or undertaking involved and out of which, on account of which, or in respect of which such cost, expenses, claim or demand shall have been incurred and shall have arisen or been created; provided that whenever such property or the income therefrom or the assets of any such going business or other undertaking shall be insufficient therefor, such cost, expenses, claim or demand shall be charged thereto, but may be paid or satisfied out of money or other property received from, or as

the property of, the same enemy. Neither the Alien Property Custodian nor any agent, attorney, bailee, manager or depositary appointed by him shall be liable personally to any one for or on account of anything done or omitted in respect of, or *or* any debt or other obligation of any kind or character owing, created or growing out of or in any other way arising from, any such property or the custody, management, administration, protection, preservation, control and/or sale or other disposition thereof, and/or from the conduct or other operation of any going business or undertaking; except in the event of intentional injury or fraudulent misconduct by the person attempted to be charged with liability.

[fol. 154] 9. The Alien Property Custodian and agents, attorneys, bailees, managers and depositaries for him, within the limits of the authority granted by him, shall have power and authority to do any and all things reasonable or proper in or about or in respect of the exercise of any of the powers and authority specifically granted above; and in addition are authorized and directed hereby to manage all such property and to do any act or thing in respect thereof or make any disposition thereof or any part thereof by sale or otherwise and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof, in like manner as though the Alien Property Custodian were the absolute owner thereof, subject to no limitations or restrictions other than those specifically set forth herein or in said "Trading With the Enemy Act," as amended or any prior Executive orders issued pursuant thereto not in conflict herewith.

Power to Issue Requirements not Inconsistent with Licenses Granted under the Authority of the President.

1. Whenever the Alien Property Custodian shall after investigation determine that any money or other property, including any going business or other undertaking, which is being held, managed, used or employed under a license granted by the President, or in the exercise of the power and authority conferred upon the President by said "Trading With the Enemy Act" as amended, is owing or belonging to or held for, by, on account of, on behalf of, or

for the benefit of an enemy or ally of enemy, and such license provides as one of its terms or conditions that such property shall, upon demand or requirement of the Alien Property Custodian, be conveyed, transferred, assigned, [fol. 155] delivered, and/or paid over to him, the Alien Property Custodian may, without the revocation of such license, require that said money or other property or any part or parcel thereof be conveyed, transferred, assigned, delivered or paid over to him; subject, however, to the continued exercise of such license, but under his supervision or under such other supervision as he may prescribe, and for such period of time or until the happening of such event as he shall prescribe. Whenever such money or property or any part thereof, at the time such requirement is made, shall be used or employed in or about the conduct or management of any mine, plant, factory, railroad or other transportation facility, warehouse, mercantile or trading establishment or any sort of a going business or undertaking, the Alien Property Custodian may require that such money or other property and/or the proceeds from the conduct or management of such business be conveyed, transferred, assigned, delivered or paid over to him, subject to the continued exercise of such license and the continued conduct or management of such business or other undertaking as above provided; and he may leave all or such part of the money or other property of such business or other undertaking in the possession of the licensee or the agent or representative of the licensee to be used, disposed of, and accounted for, in the continued exercise of such license. Any requirement made by the Alien Property Custodian pursuant to the provisions hereof shall be subject to modification or change by him at any time prior to the final compliance therewith. Any of such property other than money, including such going business or undertaking, may be advertised and sold by the Alien Property Custodian, subject to the exercise of any such license, but for the account of the Alien Property Custodian or for the account of the purchaser as the Alien Property Custodian [fol. 156] may determine; and until the purchaser of such property shall be placed in the possession thereof or during such other period as the Alien Property Custodian may determine.

Effect Upon the Statutory Powers of the Alien Property Custodian and Upon Prior Executive Orders

1. Nothing herein contained shall limit or shall be construed to limit, in any way the rights, powers and authority conferred upon the Alien Property Custodian by the "Trading With the Enemy Act" and the amendments thereto and the Executive orders heretofore issued pursuant thereto.

2. All Executive orders heretofore made are amended and modified hereby to such an extent as may be necessary to conform with the provisions hereof; but with this exception, all of such orders in force and effect at the time this order is issued are expressly ratified and continued in full force and effect.

Woodrow Wilson.

The White House, 16 July, 1918.

EXHIBIT H-7

Executive Order

(No. 3016)

By virtue of the authority vested in my by "An Act to define, regulate and punish trading with the enemy, and for other purposes", known as the "Trading with the enemy Act", approved October 6, 1917, and the amendments thereto, I hereby made the following orders and rules and regulations:

[fol. 157] I. I hereby vest in the Alien Property Custodian the executive administration of all of the provisions of sub-section (c) of section 7 of said "Trading with the enemy Act" as amended by an Act entitled "An Act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes", approved November 4, 1918; and said Alien Property Custodian shall have the power and authority to prescribe forms and procedure for the exercise of the powers and authority vested in him.

II. In the executive administration of said subsection (c) of section 7 of said "Trading with the enemy Act", the Executive Orders heretofore issued by me by virtue of the authority vested in me by said "Trading with the enemy Act" shall apply; and said Alien Property Custodian is hereby vested with all of the powers and authority heretofore granted to him or vested in him by all Executive Orders heretofore issued by me not inconsistent with this Order.

III. The power and authority heretofore vested in the Federal Trade Commission to issue, pursuant to the provisions of sub-section (c) of section 10 of the "Trading with the enemy Act", or to withhold or refuse a license to any citizen of the United States or any corporation organized within the United States, to manufacture or cause to be manufactured, a machine, composition of matter or design, or to carry on or cause to be carried on a process under any patent, or to use any trademark, print, label or copyrighted matter owned or controlled by an enemy or ally of enemy, is hereby continued in full force and effect, provided:

(1) That said Federal Trade Commission shall not have the power or authority to issue any such license whenever the patent, trademark, print, label or copyright with respect [fol. 158] to which application for such license is made, shall have been conveyed, transferred, assigned or delivered to the Alien Property Custodian, in pursuance of his requirement, or seized by him; and whenever any patent, trademark, print, label or copyright shall be or shall have been conveyed, transferred, assigned or delivered to the Alien Property Custodian, in pursuance of his requirement, or seized by him, the Federal Trade Commission shall have no further power or authority with respect thereto.

(2) That said Federal Trade Commission shall notify the Alien Property Custodian of all applications made to it for licenses under said sub-section (c) of Section 10 of the Trading with the enemy Act, so that he may, if he so desires, appear at any hearing and object to the issuance thereof. The Alien Property Custodian, in lieu of appearance, may file with the Federal Trade Commission objections to the issuance of any such license. In no event shall any license be issued until after the expiration of

fifteen days after such notice of the application shall have been given to the Alien Property Custodian.

IV. The Alien Property Custodian is hereby authorized to take all measures and do all things that may be necessary or expedient to administer the powers and authority conferred by this Order.

V. I hereby vest in Frank L. Polk all power and authority conferred upon the President by the provisions of Section 12 of said "Trading with the enemy Act" as amended, other than the Executive Administration of the provisions of said Section 12 pertaining to the designation of a Depositary or Depositaries, which Executive Administration was vested in the Alien Property Custodian by Executive Order of October 29, 1917, and which Executive Order is [fol. 159] expressly ratified and continued in full force and effect; provided that this order shall not be construed to revoke or cancel the power and authority in the Attorney General by Paragraph XXXII of the Executive Order of October 12, 1917.

Nothing in this Order shall nullify or impair any license heretofore granted by the Federal Trade Commission, pursuant to the provisions of Section 10 of an Act of Congress entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917.

Woodrow Wilson.

The White House, 3 December, 1918.

EXHIBIT H-8

Revesting in Designated Officers Certain Powers under the Trading with the Enemy Act

By virtue of the power and authority vested in me by "An Act to define, regulate and punish trading with the enemy and for other purposes," approved October 6, 1917, I hereby rescind, as of the 14th day of July, 1919, the Executive Order of April 11, 1918, which revoked (1) the power and authority vested in the Secretary of the Treas-

ury by Section XI of the Executive Order of October 12, 1917, to issue licenses to send, take or transmit out of the United States any letter or other writing, book, map, plan or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an "enemy" or "ally of enemy", in any way relating to letters patent, [fol. 160] or registration of trade-mark, print, label or copyright, or to any application therefor, and (2) the power and authority vested in the Federal Trade Commission by section XVII of the Executive Order of October 12, 1917, to issue licenses to any citizens of the United States or any corporation organized within the United States, to file or prosecute applications in the country of an "enemy" or "ally of enemy" for letters patent or for registration of, trade-mark, print, label, or copyright, and to pay any fees or agents' fees in connection therewith; or to pay to any "enemy" or "ally of enemy" any tax, annuity or fee in relation to patents, trade-marks, prints, labels and copyrights; and I do hereby order that on and after July 14, 1919, licenses to perform the acts hereinabove described may be issued under section XI and XVII of the Executive Order of October 12, 1917, by the officials in whom the authority to issue such licenses was by said Order vested and I do hereby further order that any and all licenses issued on or after July 14, 1919, which, except for the above mentioned order of April 11, 1918, would by their terms authorize any of the acts hereinabove described, are hereby confirmed and approved, and all such licenses shall be deemed to have full force and effect according to the terms thereof, in like manner as though said Order of April 11, 1918, had been rescinded prior to July 14, 1919.

Woodrow Wilson.

The White House, 25 November, 1919.

[fol. 161] EXHIBIT H-9

Order concerning the sale, transfer, and release of certain rights under letters patent, trade-marks, and similar rights determined to belong to or to be held for, by, on account of, or on behalf of or for the benefit of persons determined to be enemies not holding a license or licenses granted by the President within the purview of the Trading with the Enemy Act and the amendments thereto

By virtue of the authority vested in the President by an act of Congress entitled "An act to define, regulate, and punish trading with the enemy and for other purposes," approved October 6, 1917, known as the "Trading with the enemy Act," and the amendment to such act embodied in "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30th, 1918, and prior fiscal years on account of war expenses and for other purposes," approved March 28, 1918, and the amendment to such act embodied in "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years on account of war expenses and for other purposes," approved November 4, 1918, to make certain orders such as that herein contained, which authority has been delegated to grant free licenses to the United States for any use the President under the third day of December, 1918, I hereby, in the public interest, make the following determination and order:

The Alien Property Custodian may release and discharge the United States of America and any department thereof [fol. 162] upon such terms and conditions as to the Alien Property Custodian may seem proper, from any and all claims and demands arising from any alleged infringements of the letters patent, trade-marks, and rights under letters patent and trade-marks hereinafter referred to.

The Alien Property Custodian may sell at private sale without public or other advertisement to The Chemical Foundation (Inc.), a corporation organized and existing under and by virtue of the laws of the State of Delaware

at such place and upon such terms and conditions as to the Alien Property Custodian or his authorized agent may seem proper, all of the letters patent, trade-marks, and rights under letters patent and trade-marks, including all profits and damages recoverable at law or in equity for the past infringement thereof which the Alien Property Custodian may seize or may have seized upon the provisions of the said Trading with the enemy Act and the amendments thereto now or hereafter enacted and which he from time to time shall determine relate to the objects and purposes of said The Chemical Foundation (Inc.) as expressed and defined by its charter.

My reasons in the public interest for the foregoing determination, order, rule, and regulation, are:

First. Said letters patent, trade-marks, and similar rights cannot be sold to the best advantage at public sale after public or other advertisement.

Second. The Chemical Foundation (Inc.) has been incorporated for the purpose of holding letters patent, trade-marks, and similar rights relating to the chemical and allied sciences as a trustee for American industry, for the purpose of the Americanization of such industries as may be affected thereby, of eliminating alien interests hostile to said America industries and of the advancement of chemical and allied industry in the United States. The [fol. 163] Chemical Foundation (Inc.) is obligated to grant nonexclusive licenses upon equal terms at a uniform royalty to qualified American manufacturers and is empowered to grant free licenses to the United States for any use the United States may desire to make of the inventions covered by said letters patent and similar rights.

Third. The public interest will be best served by a wide use of the inventions covered by said letters patent and similar rights and such wide use can be most readily promoted by the licenses which the said The Chemical Foundation (Inc.) is by its charter obligated to grant.

Fourth. A private sale will prevent said letters patent, trade-marks, and similar rights from falling into the hands of purchasers who would be unwilling or unable to put the

inventions covered thereby into use, or would use them for purely speculative purposes.

Fifth. It would be impossible to make a public sale of the said letters patent, trade-marks, and similar rights so as to secure the foregoing benefits to the public.

Sixth. Unnecessary expense, delay and inconvenience may be avoided by a private sale.

Done in the District of Columbia this the 26th day of February, in the year of our Lord one thousand nine hundred and nineteen, and of the independence of the United States of America, the one hundred and forty-third.

Frank L. Polk.

[fol. 164] EXHIBIT H-10

An order concerning the sale, transfer, and release of certain copyrights, applications for letters patent, and applications for the registration of trade-marks and copyrights determined to belong to or to be held for, by, on account of, or for the benefit of persons determined to be enemies not holding a license or licenses granted by the President within the purview of the Trading with the Enemy Act and the amendments thereto

By virtue of the authority vested in the President by an act of Congress entitled "An act to define, regulate, and punish trading with the enemy and for other purposes," approved October 6, 1917, known as the "Trading with the enemy Act," and the amendment to such act embodied in "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30th, 1918, and prior fiscal years on account of war expenses and for other purposes," approved March 28, 1918, and the amendment to such act embodied in "An act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years on account of war expenses and for other purposes," approved November 4, 1918, to make certain orders such as that herein contained, which authority has been delegated

to me by the Executive order No. 3016 and signed by the President under the third day of December, 1918, I hereby, in the public interest, make the following determination and order:

The Alien Property Custodian may release and discharge the United States of America and any department thereof [fol. 165] upon such terms and conditions as to the Alien Property Custodian may seem proper from any and all claims and demands arising from any alleged infringement of the copyrights hereinafter referred to,

The Alien Property Custodian may sell at private sale without public or other advertisement to The Chemical Foundation (Inc.), a corporation organized and existing under and by virtue of the laws of the State of Delaware at such place and upon such terms and conditions as to the Alien Property Custodian or his authorized agent may seem proper, all of the copyrights, the certificates of registration thereof, and the publications upon which said registrations were granted, applications for letters patent and for the registration of trade-marks and copyrights and all rights thereunder which the Alien Property Custodian may seize or have seized under the provisions of the said "Trading with the enemy Act" and the amendments thereto now or hereafter enacted and which he from time to time shall determine relate to the objects and purposes of said The Chemical Foundation (Inc.) as expressed and defined by its charter.

My reasons in the public interest for the foregoing determination, order, rule, and regulations, are:

First. A similar order, rule and regulation relating to letters patent, trade-marks, and similar rights has been made by me the 26th day of February, 1919, and this order is supplemental thereto and necessary to fully carry out the objects and purposes of said order of February 26, 1919.

Second. Said copyrights, applications for letters patent, and for the registration of trade-marks and copyrights cannot be sold to the best advantage at public sale after public or other advertisement.

Third. The Chemical Foundation (Inc.), has been incorporated for the purpose of holding letters patent, trade-

[fol. 166] marks, and similar rights relating to the chemical and allied sciences as a trustee for American industry, for the purpose of the Americanization of such industries as may be affected thereby, of eliminating alien interests hostile to said American industries, and of the advancement of chemical and allied industries in the United States.

Fourth. The public interest which will be best served by the administration by The Chemical Foundation (Inc.), of the letters patent, trade-marks, copyrights, and applications therefor and similar rights permitted to be sold to it by this order and by my order of the 26th day of February, 1919.

Fifth. A private sale will prevent said copyrights, applications for letters patent and for the registration of trade-marks and copyrights from falling into the hands of purchasers who would be unwilling or unable to carry out the purposes of The Chemical Fundation (Inc.), or would use the copyrights, applications for letters patent and for the registration of trade-marks and copyrights for purely speculative purposes.

Sixth. It would be impossible to make a public sale of the said copyrights, letters patent and application for the registration of trade-marks and copyrights so as to secure the benefits to the public which a sale to The Chemical Foundation (Inc.), would secure to the public.

Seventh. Unnecessary expense, delay and inconvenience may be avoided by a private sale.

Done in the District of Columbia, this 5th day of April, in the year of our Lord one thousand nine hundred and nineteen and of the Independence of the United States of America, the one hundred and forty-third.

(Signed) Frank L. Polk.

[fol. 167] IN UNITED STATES DISTRICT COURT

No. 487, No. 492, No. 494, No. 495

[Titles omitted]

STIPULATION AS TO FACTS—Filed April 30, 1928

[fol. 168] For purposes of the trial of the above-entitled suits the following are accepted and agreed to be facts, the proof whereof by any party is dispensed with, each party reserving, however, all proper objections to the introduction of any thereof as evidence:

I. The Chemical Foundation, Incorporated, is and during all the times herein concerned was a corporation and citizen of the State of Delaware, having its principal office in the City of Wilmington in said state.

II. Frank White is the Treasurer of the United States and resides and has his office in the City of Washington, District of Columbia.

III. E. I. du Pont de Nemours and Company is and during all the times herein concerned was a corporation of the State of Delaware, having its principal place of business at Wilmington in said state.

IV. Farbwerke vormals Meister Lucius & Bruning is and during all the times herein concerned was a corporation organized under the laws of Germany, having its principal place of business at Hochst-on-the-Main, Germany.

V. Deutsche Gold & Silber Scheide Anstalt vorm. Roessler is and at all the times herein concerned was a corporation organized under the laws of Germany, having its principal place of business at Frankfort-on-the-Main, Germany.

[fol. 169] VI. Badische Anilin- & Soda-Fabrik is and at all the times herein concerned was a corporation organized under the laws of Germany, having its principal place of business at Ludwigshafen-on-the-Rhine, Germany.

VII. Letters Patent No. 680,395, entitled "Process of Making Indoxyl Derivatives," were lawfully granted and issued by the United States Patent Office under date of

August 13, 1901, to said Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, the application for said letters patent having theretofore been assigned to said corporation by the inventor, Johannes Pfleger, of Frankfort-on-the-Main, Germany, the instrument of assignment being dated June 25, 1901, and duly recorded in the United States Patent Office.

VIII. Letters Patent No. 718,340, entitled "Process of Making Cyan-Methyl Derivatives of Aromatic Amids," were lawfully granted and issued by the United States Patent Office under date of January 13, 1903, to said Badische Anilin- & Soda Fabrik, the application for said letters patent having theretofore been assigned to said corporation by the inventor, Otto J. Graul, of Ludwigshafen-on-the-Rhine, Germany, the instrument of assignment being dated January 17, 1902, and duly recorded in the United States Patent Office.

IX. Letters Patent No. 868,294, entitled "Process of Producing Phenylglycin and its Homologues," were lawfully granted and issued by the United States Patent Office under date of October 15, 1907, to said Farbwerke vorm. Meister, Lucius & Bruning, the application for said letters patent having theretofore been assigned to said corporation by the inventor, Robert Schmidlin, of Hochst-on-the-Main, Germany, the instrument of assignment being dated May 3, 1906, and duly recorded in the United States Patent Office.

X. Each of the aforesaid letters patent was valid and copies of the specifications thereof are annexed to the Bill [fol. 170] of Complaint of The Chemical Foundation, Inc., as "Exhibit A-1," "Exhibit A-2," and "Exhibit A-3," and by reference are hereby made a part hereof.

XI. Under authority of and in conformity with the Act of Congress known as the "Trading with the Enemy Act," and the amendments thereto, and the Executive Orders issued by the President of the United States in pursuance thereof, the Federal Trade Commission on the 21st day of January, 1918, duly granted a certain license under the aforementioned letters patent, (known and identified as License No. 19) to said E. I. du Pont de Nemours & Com-

pany, the terms and conditions of which license are particularly set forth in the instrument of license, a copy of which is annexed to the bill of complaint of The Chemical Foundation, Inc., as "Exhibit B" and by reference is hereby made a part hereof.

XII. Said License No. 19 provided, among other things, that said E. I. du Pont de Nemours & Company should pay to the Alien Property Custodian, semi-annually, a royalty of 5 per cent of the net profit derived from the sale of the products included in said license. On January 14, 1920, the Federal Trade Commission, acting under authority as aforesaid, by order duly amended said license as to provide that from on and after August 1, 1919, the royalty payable thereunder should be at the rate of 2 per cent of the gross amounts received by the licensee, E. I. du Pont de Nemours & Company, from the sale of the products included in said license, as more fully set forth in the said order. A copy of said order is annexed to the bill of complaint of The Chemical Foundation, Inc., as "Exhibit C" and by reference is hereby made a part hereof.

XIII. On September 1, 1920, the Federal Trade Commission, acting under authority as aforesaid, by order duly [fol. 171] cancelled and terminated said license, as more fully set forth in said order. A copy of said order is annexed to the bill of complaint of The Chemical Foundation, Inc., as "Exhibit E" and by reference is hereby made a part hereof.

XIV. Said license authorized said E. I. du Pont de Nemours & Company to use and employ, in addition to the above-mentioned letters patent, such other inventions owned or controlled by an enemy or ally of enemy as might be found desirable in order to make, use and vend the group of dyes known as indigo and its derivatives, as is more particularly set forth in said license. The said E. I. du Pont de Nemours & Company did not, under the authority of these provisions of the said license, use or employ any such other inventions.

XV. Subsequent to the issuance of said License No. 19, but prior to its cancellation as aforesaid, the Alien Property Custodian, acting under authority of and in conform-

ity with the said "Trading with the Enemy Act," and the amendments thereto, the Executive Orders and Proclamations issued by the President of the United States in pursuance thereof, after investigation duly determined that said Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, and said Badische Anilin and Soda Fabrik, and said Farbwerke vorm. Meister, Lucius & Bruning were severally enemies (as defined in the said "Trading with the Enemy Act" as amended) not holding licenses granted by the President of the United States within the purview of said act as amended and said orders and proclamations, and that the said Letters Patent Nos. 680,395, 718,340 and 868,294, and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof respectively be- [fol. 172] longed to, or were held, on account of, or on behalf of or for the benefit of said enemies, and duly seized severally the said letters patent and every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof; the instrument of seizure covering Letters Patent No. 680,395 and appurtenant rights and benefits being dated March 22, 1919 and recorded March 26, 1919 in the United States Patent Office; the instrument of seizure covering Letters Patent No. 718,340 and appurtenant rights and benefits being dated February 3, 1919 and recorded February 21, 1919 in the United States Patent Office; the instrument of seizure covering Letters Patent No. 868,294 and appurtenant rights and benefits being dated March 22, 1919 and recorded March 26, 1919 in the United States Patent Office; all of which more particularly appears in the said instruments of seizure, copies of which are hereto attached, made a part hereof and marked respectively "Exhibit D-1," "Exhibit D-2," and "Exhibit D-3."

XVI. The aforesaid instruments of seizure covering Letters Patent 680,395 and 868,294 and appurtenant rights and benefits (Exhibits D-1 and D-3) disclose that the seizures thereby made were made "subject to the rights of E. I. du Pont de Nemours & Company, Wilmington, Delaware,"

this language referring solely to such rights under these letters patent as were enjoyed by said E. I. du Pont de Nemours & Company under the aforesaid License No. 19.

XVII. Thereafter, the Alien Property Custodian acting under like authority and under authority of certain orders dated February 26, 1919, and April 5, 1919, issued by Frank L. Polk as delegate of the President of the United States, duly sold to said The Chemical Foundation, Incorporated, the aforesaid letters patent (among others), together with [fol. 173] all claims and demands for profits and damages recoverable at law or in equity for the past infringements thereof against every person, firm, corporation or government except the Government of the United States of America, and subject only to the provisions of a certain release to the United States of America and to the rights of citizens of the United States or of friendly nations, as set forth in the requirements or demands for certain of the letters patent and other properties concerned; all of which is more particularly set forth in the instrument of assignment dated April 10, 1919, which was duly recorded in the United States Patent Office, and a copy of which with the pertinent excerpts from the schedules thereto attached and referred to therein, is *is* hereto annexed, made a part hereof and marked "Exhibit F-2."

A copy of the release from the Alien Property Custodian to the United States of America referred to in the aforementioned instrument dated April 10, 1919, is hereto annexed, made a part hereof and marked exhibit F-2."

The only rights of citizens of the United States or of friendly nations referred to in said instrument dated April 10, 1919 herein concerned are those of E. I. du Pont de Nemours & Company, which rights, as above stated, are limited to those this company enjoyed by virtue of said License No. 19.

XVIII. Thereafter the President of the United States, by virtue of authority vested in him by the provisions of said "Trading with the Enemy Act," as amended, by an Executive Order dated February 13, 1920, duly ratified and confirmed the sales made by the Alien Property Custodian to the said The Chemical Foundation, Incorporated, and authorized the Alien Property Custodian to ratify and con-

firm such sales by the execution and delivery of a suitable instrument of ratification; all of which is more particularly [fol. 174] set forth in said Executive Order, a copy of which is hereto attached, made a part hereof and marked "Exhibit G-1." The Alien Property Custodian, acting under the authority aforesaid and under the last mentioned Executive Order of the President of the United States, duly ratified and confirmed the said sales to the said The Chemical Foundation, Incorporated, by a suitable instrument of ratification; such instrument being dated March 1, 1921, and duly recorded in the United States Patent Office, and a copy thereof being hereto annexed, made a part hereof and marked "Exhibit G-2."

XIX. Annexed hereto, made a part hereof and marked with the exhibit numbers hereinafter designated are the copies of the following:

Exhibit H-1. Excerpts from Executive Order issued by President Wilson on October 12, 1917.

Exhibit H-2. Executive Order issued by President Wilson on October 29, 1917.

Exhibit H-3. Executive Order issued by President Wilson on February 5, 1918.

Exhibit H-4. Executive Order issued by President Wilson on February 26, 1918.

Exhibit H-5. Excerpts from Executive Order issued by President Wilson on April 11, 1918.

Exhibit H-6. Executive Order issued by President Wilson on July 16, 1918.

Exhibit H-7. Executive Order issued by President Wilson on December 3, 1918.

Exhibit H-8. Executive Order issued by President Wilson on November 25, 1919.

Exhibit H-9. Executive Order issued by Honorable Frank L. Polk, the Acting Secretary of State, on February 26, 1919.

Exhibit H-10. Executive Order issued by Honorable Frank L. Polk, the Acting Secretary of State, on April 5, 1919.

[fol. 175] XX. The "end of the war" referred to in Section 2 and Subsection (f) of Section 10 of the "Trading with the Eenemy Act," as amended, occurred on July 2,

1921, and each of the above-mentioned suits was filed within the expiration of one year thereafter.

(Sgd.) Wm. G. Mahaffy, Solicitor for The Chemical Foundation, Incorporated. (Sgd.) J. P. Laffey, Solicitor for E. I. du Pont de Nemours & Co. (Sgd.) Chas. F. Curley, Solicitor for Farbwerk vormals Meister Lucius & Bruning. (Sgd.) Chas. F. Curley, Solicitor for Deutsch Gold & Silber Scheide Anstalt vorm. Roessler. (Sgd.) Chas. F. Curley, Solicitor for Badische Anilin & Soda-Fabrik. (Sgd.) Leonard E. Wales, (Sgd.) Thomas E. Rhodes, Solicitors for Frank White, as Treasurer of the United States.

(Note.—Exhibits marked D-1, D-2, D-3, F-1, F-2, G-1, G-2, H-1, H-2, H-3, H-4, H-5, H-6, H-7, H-8, H-9, and H-10, annexed to original of foregoing stipulation the same as Exhibits similarly numbered and annexed to stipulation captioned in Cause No. 487, and not reprinted here.)

[fol. 176] In United States District Court for the District of Delaware

No. 487. In Equity

The Chemical Foundation, Incorporated, Plaintiff,

v.

E. I. du Pont de Nemours and Company (a Corporation) and Frank White, as Treasurer of the United States, Defendants

No. 492. In Equity

Farbwerke Vormals Meister, Lucius & Bruning, Plaintiff,

v.

E. I du Pont de Nemours and Company (a Corporation) and Frank White, as Treasurer of the United States, Defendants

No. 494. In Equity

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORMALS ROESSLER, Plaintiff,

v.

E. I. DU PONT DE NEMORS AND COMPANY (a Corporation) and Frank White, as Treasurer of the United States, Defendants

[fol. 177] No. 495. In Equity

BADISCHE ANILIN & SODA FABRIK, Plaintiff,

v.

E. I. DU PONT DE NEMOURS AND COMPANY (a Corporation) and Frank White, as Treasurer of the United States, Defendants

OPINION—Filed Nov. 16, 1928

The bill of complaint in each of these four suits consolidated for trial, was filed against E. I du Pont de Nemours and Company and Frank White as Treasurer of the United States, to recover from the corporate defendant under Sec. 10 (f) of the "Trading with the Enemy Act," 40 Stat. 411, a reasonable royalty for the use and enjoyment by it, under license made January 1, 1918, by the Federal Trade Commission, of United States Letters Patent Nos. 680,395, 718,340 and 868,294, then enemy owned. The plaintiffs are the three German corporations, severally owning the three patents at the time the license was made, and the Chemical Foundation, Incorporated, to which, after his seizure of the patents on February 3 and March 22, 1919, the Alien Property Custodian assigned the patents on April 10, 1919. The German plaintiffs expressly limit the relief sought by them to the "royalties' that accrued under the license prior to the date of the assignment of the patents to the Chemical Foundation, hereinafter called accrued royalties, while that plaintiff limits the relief sought by it to the "royalties" that accrued under the license subsequent to the date of its acquisition of the patents under the assignment. The license, granted "for the term of each of the respective

patents, unless sooner terminated," was terminated by mutual consent September 1, 1920.

To these suits the Treasurer of the United States was made a party defendant in obedience to statutory requirement. Sec. 10(f). The reason for this statutory man[fol. 178] date is found in Sec. 10(d) of the act which calls for the payment by the licensee to the Alien Property Custodian of certain sums to be fixed by the license, and the deposit thereof forthwith by that officer "in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, * * * to be paid from the Treasury upon order of the court, as provided in subdivision (f) of this section, or upon the direction of the alien property custodian."

The cases were tried upon stipulated facts under which the corporate defendant does not dispute the right of the Chemical Foundation to recover from it a reasonabe royalty but it asserts that as Sec. 10(c) of the Trading with the Enemy Act, under which the license was granted, provides—"Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, * * * or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) hereof" its liability for its use and enjoyment of the patents is solely that created by the terms of Sec. 10(f) of the Trading with the Enemy Act, that the limitations specified in the statute creating the liability are a part of the right of action itself, that compliance therewith is essential to the successful assertion of the right conferred by the statute and that because of the seizure and sale of the patents by the Alien Property Custodian the German plaintiffs were not at the time the suits were brought in 1922 and have not at any time since been the owners of the patents within the meaning of subsection (f). In support of their claims the German plaintiffs rely mainly upon an amendment made to that subsection by Sec. 19 of [fol. 179] the "Settlement of War Claims Act of 1928" approved March 10, 1928.

Section 10(f) as originally passed provides:

"The owner of any patent * * * under which a license is granted hereunder may, after the end of the war

and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, * * * Provided, however, That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: Provided further, That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. * * *"

Sec. 19 of the "Settlement of War Claims Act of 1928" reads thus:

[fol. 180] "Subsection (f) of section 10 of the Trading with the Enemy Act, as amended, is amended by adding at the end thereof the following new paragraph:

"'In the case of any such patent, * * *, conveyed, assigned, transferred, or delivered to the Alien Property Custodian or seized by him, any suit brought under this subsection, within the time limited therein, shall be considered as having been brought by the owner within the meaning of this subsection, in so far as such suit relates to royalties for the period prior to the sale by the Alien Property Custodian of such patent, * * * if brought

either by the Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent, * * * was seized or otherwise acquired by the Alien Property Custodian.'"

Each of the bills of complaint was filed in 1922—within one year after the end of the war. Notice of each suit was filed with the Alien Property Custodian within thirty days after the entry of suit.

The sole primary issue, as I understand it, is whether the German plaintiffs have established that they are the respective "owners" of the several patents within the meaning of Sec. 10 (f) either as originally passed or as amended.

That the German plaintiffs were the respective owners of the several patents at the time the license was granted and that they continued to be the owners thereof until the seizure of the patents by the Alien Property Custodian is not disputed. That the seizure of the patents by the Alien Property Custodian divested the enemy owners of their property in and to the patents and vested the Alien Property Custodian therewith as fully and completely as if the seizure had been a valid assignment by the enemy owners is now settled. United States v. Chemical Foundation, [fol. 181] 272 U. S. 1. Commercial Trust Co. v. Miller, 262 U. S. 51, 56. Hicks v. Anchor Packing Co., 16 Fed. (2d) 723 (C. C. A. 3). Hunyadi Janos Corporation v. Stoeger, 5 Fed. (2d) 506, 508. Yet, as an assignment of a patent without more does not transfer to the assignee the right to recover damages or profits for prior infringements, Moore v. Marsh, 7 Wall, 515, 522, United States v. Loughrey, 172 U. S. 206, 211-212, Canda Bros. v. Michigan Malleable Iron Co., 152 Fed. 178, 180, although royalties to accrue and damages and profits for future infringements are incident to and accompany the patent unless separated by express reservation, Canda Bros. v. Michigan Malleable Iron Co., supra, May v. Saginaw Co., 32 Fed. 629, 632, and as a patentee may after assigning the patents sue and recover for past infringements, Moore v. Marsh, 7 Wall. 515, it would seem obvious that an assignor of a patent would have like rights with respect to royalties accrued at the time of the assignment. But the right to recover accrued royalties or damages and profits for past infringements

may likewise be assigned. Merriman v. Smith, 11 Fed. 588, 589, Consolidated Oil Well Packer Co. v. Eaton, Etc., Co., 12 Fed. 865, 870, Adams v. Bellaire Stamping Co. 25 Fed. 270, Walker on Patents Sec. 395. The question thus arises whether at the time of the seizure of the patents or at any other time the Alien Property Custodian was empowered to and did seize the "royalties" accrued under the license of these enemy owned patents for, if there has been no seizure of the accrued royalties the owners of the patents at the time the royalties became due are, with respect to such royalties, the "owners" of the patents within the meaning of Sec. 10 (f) notwithstanding their title to the patents was divested by seizure, unless, by limiting to "the owner of the patent" the right to sue Congress intended to create a new rule with respect to royalties and damages accruing under the enemy owned patents prior to assignment [fol. 182] and to provide that such royalties and damages should pass with and as an inseparable incident of the patent assigned. It is unnecessary, however, here to decide whether accrued royalties did or did not pass with the patent as an inseparable incident for the accrued royalties as well as the patents were expressly seized by the Alien Property Custodian.

That the Alien Property Custodian was empowered by Congress to seize accrued royalties, as well as patents, is made manifest by Sec. 7 (c) of the Trading with the Enemy Act as amended November 4, 1918, 40 Stat. 1020, which says:

"If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, * * * choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this act."

All conditions precedent having been complied with the Alien Property Custodian, in the exercise of the power so conferred, on February 3, 1919 did in fact seize patent No. 718,340 not only, but, as well, "every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof." On March 22, 1919 the Alien Property Custodian likewise seized the two remaining patents "and every right, title and interest with respect thereto, including all damages [fol. 183] and profits recoverable at law or in equity from any person, firm, corporation or government, for past infringement thereof, subject to the rights of E. I. du Pont de Nemours & Co., Wilmington, Delaware." The express recognition in two of the instruments of seizure of the outstanding license had, of course, no more effect upon the right to royalties accrued and to accrue than a sale of land subject to an outstanding lease has upon the right to rent accrued and to accrue. United States v. Loughrey, 172 U. S. 206, 211-212, 16 R. C. L. 915.

That the comprehensive language of the instruments of seizure embraced accrued royalties cannot, I think, in view of the purpose and scope of the amendment of November 4, 1918, be open to doubt. The so called "royalties" here sought to be recovered are in truth but the statutory, 10 (f), damages fixed in terms of royalty for defendant's infringement of the patents. The German plaintiffs were the owners of the patents at the time the license was granted to the defendant by the Federal Trade Commission. A true license can be granted only by one who owns or has an interest in the property affected by the license. Ruffin v. Seaboard Air Line R. Co., 151 N. C. 330, 66 S. E. 317. Williams v. Concord Cong. Church, 193 Pa. 120, 44 Atl. 272. Bohn v. Hatch, 133 N. Y. 64, 30 N. E. 659. That which in legal contemplation Congress in the exercise of its war powers really did under sections 10 (c) and 10 (f) of the Trading with the Enemy Act was, I think, not to provide for the granting of true licenses but to change in favor of one infringing under the supervision of the Federal Trade Commission the measure of damages ordinarily prevailing in infringement suits and to grant to one so infringing immunity from suit until after the end of the war.

The Alien Property Custodian having been empowered to seize the German plaintiffs' right to accrued royalties and having exercised that right the Alien Property Cus-
[fol. 184] todian became the owner thereof. Hicks v. Anchor Packing Co., 16 Fed. (2d) 723 (C. C. A. 3). Thereafter on April 10, 1919, the Alien Property Custodian, acting under authority of the Trading with the Enemy Act as amended and of the order of Frank L. Polk of February 26, 1919, to whom the President had delegated his authority in the premises, authorizing the Alien Property Custodian to sell at private sale to the Chemical Foundation, Inc., "all the letters patent * * *, including all profits and demands recoverable at law or in equity for the past infringement thereof, which the Alien Property Custodian may have seized or might seize * * *," sold and assigned to the Chemical Foundation, Inc. the whole right, title and interest acquired by him, the Alien Property Custodian, under the instruments of seizure including the right to the choses in action for "all claims and demands for profits and damages recoverable at law or in equity for the past infringement of said letters patent." Later, on February 13, 1920, the President, by executive order, reciting that doubt had arisen with respect to the authority of the Alien Property Custodian to sell and convey to the Chemical Foundation, Inc. "certain of the said choses in action, rights, interests, benefits under agreements, and rights and claims, including rights to receive moneys by way of royalties or otherwise, as compensation for the use of patents, trade-marks or trade names" authorized the Alien Property Custodian to ratify and confirm the sales made to the Chemical Foundation, Inc. by the execution and delivery of a suitable instrument of ratification. Acting in accordance with this order the Alien Property Custodian on March 1, 1921 executed an assignment to the Chemical Foundation, Inc. confirming and ratifying the sale and assignment and selling and assigning to the Chemical Foundation, Inc. "all choses in action, rights, interests, and benefits under agreements and rights and claims of
[fol. 185] every character and description growing out of and appurtenant to the ownership of said property, including (but not thereby limiting the generality of the foregoing) rights to receive moneys by way of royalties or

otherwise as compensation for the use of the patents * * * and all right, title, and interest in and to the choses in action and the funds referred to in section 10, subsection (f) of the 'Trading with the Enemy Act,' as amended, acquired by the Alien Property Custodian by virtue of the seizures by which there were seized patents, * * * under which a license had theretofore been granted in accordance with the provisions of section 10, subsection (c) of said act, as amended, * * *. the intent and purpose of this instrument being to vest in said the Chemical Foundation (Inc.), every right, title, interest, claim, and demand, save such as are specifically excepted in and by the said assignments, acquired by the Alien Property Custodian by virtue of the seizures whereby the said property was seized." These orders and assignments were sustained in United States v. Chemical Foundation, 272 U. S. 1. By virtue of the statute, these orders and assignments the Chemical Foundation became the owner of the choses in action, or right to recover from the defendant the accrued royalties, originally belonging to the German plaintiffs. It is true that the Chemical Foundation has elected not to exercise its right to recover the accrued royalties from the defendant. But such election does not operate as an assignment of that right either to the German plaintiffs or to the Alien Property Custodian. Consequently, the German plaintiffs are without cause of action and without right to recover from the defendant the accrued royalties unless by the amendment of March 10, 1928 to sec. 10 (f) of the Trading with the Enemy Act Congress divested the Chemical Foundation of its right and revested the Germans therewith. That right is a chose in action. A chose in action is property. The fifth amendment to the Consti- [fol. 186] tution of the United States, providing that no person shall be deprived of his property without due process of law, denies to the Congress power to transfer property from one to another directly or indirectly. Ochoa v. Hernandez, 230 U. S. 139, Gilman v. Tucker, 128 N. Y. 190, 28 N. E. 1040. In the former of these cases the Supreme Court, holding that even if the commanding officer in territory occupied by military forces of the United States has all the legislative power as to such territory possessed by Congress, he is still subject, as Congress is, to the pro-

visions of the fifth amendment and cannot by military orders deprive persons of their property without due process of law, said, p. 161:

"Whatever else may be uncertain about the definition of the term 'due process of law,' all authorities agree that it inhibits the taking of one man's property and giving it to another, contrary to settled usages and modes of procedure, and without notice or an opportunity for a hearing."

The German plaintiffs, correctly asserting that the war powers of Congress are not limited or affected by the restrictions of the fifth and sixth amendments, Miller v. United States, 11 Wall. 268, 304-305, take the position that the amendment of 1928 to section 10 (f) of the Trading with the Enemy Act was an exercise by Congress of its constitutional power to "make rules concerning captures on land and water." Constitution, Article I, Sec. 8. The Treaty of Peace with Germany was signed in Berlin, August 25, 1921. The President's Proclamation on November 14, 1921, declared the war "terminated on July 2, 1921." If, however, the Treaty of Peace did not constitute a bar to subsequent action by Congress concerning captures on land and water and the amendment of 1928 was in truth an exercise of its war powers that fact constitutes a denial that the amendment was intended to operate upon or [fol. 187] with respect to the choses in action here involved, for that property having been on April 10, 1919 sold and passed into the channels of commerce under the express authority of Congress, Sec. 12 of the Trading with the Enemy Act, as amended March 28, 1918, 40 Stat. 460, United States v. Chemical Foundation, 272 U. S. 1, the war powers of Congress with respect to that property became, thereupon, functus officio. After its sale the Government did not hold it and it no longer bore the stamp "captured property." Captured property sold under authority of Congress to American citizens passed from under the powers of Congress touching captured property as fully and completely as a patented article sold by the patentee passes from under the monopoly of the patent. See

Chaffee v. Boston Belting Company, 22 How. 217, 223. The property to which the Congress reserved the right to make disposition after the war did not include that sold under its authority during the war. The amendment of 1928 is wholly without effect upon United States v. Chemical Foundation, 272 U. S. 1, and Hicks v. Anchor Packing Co., 16 Fed. (2d) 723, (C. C. A. 3). What the effect of that amendment may be in instances in which the seized choses in action have never been disposed of and are still retained by the Alien Property Custodian it is neither necessary nor proper here to decide.

Having no cause of action either at the time their suits were entered or at any time since, the bills of complaint filed by the German plaintiffs must be dismissed.

The Alien Property Custodian, however, asserting that by the seizures he became the owner of the patents and of the right to recover the accrued royalties and that the right to recover the accrued royalties has not been disposed of and is now owned by him, now moves that he be substituted for the German plaintiffs in the three suits brought by them. That the Custodian is correct in his [fol. 188] assumption that the full right and title to the choses in action for the accrued royalties were, through seizure, acquired by him has been hereinbefore shown. His second contention—that he was without power to sell the accrued royalties—rests, as I understand it, upon the four-fold proposition that the accrued royalties consisted of the moneys deposited, after payment by the licensee, by him in the Treasury of the United States pursuant to Sec. 10 (d), that he was without power to sell money, that Congress by providing in Sec. 12 of the Trading with the Enemy Act—"After the end of the war any claim of an enemy or of ally of enemy to any money or other property received and held by the Alien Property Custodian on deposit in the United States Treasury, shall be settled as Congress shall direct," 40 Stat. 411, reserved to itself the right to make disposition of these moneys after the end of the war, and that Congress by the Settlement of War Claims Act of 1928 has exercised this reserved power. I think these propositions cannot be sustained. The bills of complaint were filed, not against the funds in the hands of the Treasurer under Sec. 10 (d), but for the recovery from the defendant of "a reasonable royalty" under Sec.

10 (f) for defendant's use and enoyment of the inventions. The moneys paid by the defendant to the Alien Property Custodian and by him deposited in the Treasury of the United States under Sec. 10 (d) are in no sense royalties or damages for infringement. They are merely a surety fund to which the plaintiff in a decree for the recovery for defendant's use and enoyment of the invention may resort for full or partial satisfaction of the decree, as the facts may appear. There was, of course, no sale to the Chemical Foundation of these moneys by the Alien Property Custodian. That which was sold and assigned by him to the Chemical Foundation consisted of choses in action [fol. 189] against the licensee. As those choses in action were assignable the statute, Sec. 10 (f), conferred, as an incident to the assignment, upon the assignee reducing them to judgment or decree a right to resort to the surety fund for full or partial satisfaction of the decree. Again, the moneys paid by the defendant into the Treasury of the United States having been received by the Treasurer under Section 10 (d) "as a trust fund for the said licensee and for the owner of the said patent," it cannot be assumed that the Congress by its amendment of 1928 to Sec. 10 (f) of the Trading with the Enemy Act intended to violate the terms of the trust under which the moneys were held or to appropriate to the Government's own use funds held by it in trust. Furthermore, Congress did not by Sec. 12 of the Trading with the Enemy Act reserve to itself the right to make disposition of these moneys after the end of the war. On the contrary, by the provisos in the final paragraph of that section it expressly excepted these moneys from that reserved power.

The Alien Property Custodian, like the German plaintiffs, being without a cause of action at the time the suits were instituted or at any time since, his motion must be denied without regard to whether he would or would not be entitled to be substituted as a party plaintiff had he a cause of action.

The Treasurer of the United States has moved that the bill of complaint filed by the Chemical Foundation be dismissed upon the ground that it sets forth no cause of action. Since, however, that plaintiff became the purchaser and assignee of the patents, with which the right to future royalties and to damages for future infringements passed

as an incident, and as it appears that the defendant used the inventions of the patents after the assignment, this motion must also be denied.

Decrees and orders in conformity herewith may be presented.

(Sgd.) Hugh M. Morris, J.

November 16, 1928.

[fol. 190] In United States District Court

No. 487

[Title omitted]

Order Denying Motion to Dismiss—Filed December 14, 1928

And now, to wit, this fifteenth day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled Farbwerke Vormals Meister, Lucius & Bruning, v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States No. 492 In Equity; Deutsche Gold and Silber Scheide Anstalt Vormals Roessler v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 494 In Equity, and Badische Anilin & Soda Fabrik v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 495 In Equity, (the last mentioned cause to the extent of the issues therein relating to Federal Trade Commission License No. 19), and the Motion made in the Answer of Frank White, as Treasurer of the United States, to dismiss the bill of complaint, herein, having come on to be heard at this term, and argued by counsel; thereupon, upon consideration thereof, it is

Ordered by the Court that the said motion be and the same hereby is denied.

(Sgd.) Hugh M. Morris, J.

[fol. 191] IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

No. 487. In Equity

THE CHEMICAL FOUNDATION, INCORPORATED, Plaintiff,

v.

E. I. DU PONT DE NEMOURS AND COMPANY (a Corporation), and FRANK WHITE, as Treasurer of the United States, Defendants

DECREE—Filed December 15, 1928

And now, to wit, this fifteenth day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled Farbwerke Vormals Meister Lucius & Bruning v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 492 in Equity, Deutsche Gold & Silber Scheide Anstalt vormals Roessler v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 494 In Equity, and Badische Anilin & Soda Fabrik v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 495 In Equity (the last mentioned cause to the extent of the issues therein relating to Federal Trade Commission License No. 19), and having come on to be heard at this term, and argued by counsel; thereupon, upon consideration thereof, it is

Ordered, adjudged and decreed by the Court, as follows:

First. That the plaintiff became on April 10, 1919 and has ever since been and is now the sole owner of the Letters [fol. 192] Patent of the United States Nos. 680395, 868294 and 718340 and of the inventions and discoveries covered thereby and of every right, title and interest therein, including in particular the right inuring to the "owner" of said Letters Patent, under and by virtue of Section 10-f as originally enacted of the Act of Congress known as the Trading with the Enemy Act, to sue and recover for the use and enjoyment of the inventions and discoveries covered by said Letters Patent by any person or persons licensed

under other provisions of said Act to use and enjoy the same.

Second. That the right of recovery so belonging to the plaintiff embraces the right to recovery for all use and enjoyment of the inventions and discoveries covered by said Letters Patent by every and all such person or persons so licensed, without regard to whether or not such use and enjoyment was wholly or in part before or after said April 10, 1919, and is unaffected by the amendment of said Section 10-f of said Act by Section 19 of the Act of Congress known as the Settlement of War Claims Act of 1928, or by any other amendment of said Trading with the Enemy Act.

Third. That the plaintiff is entitled to recover from the defendant E. I. du Pont de Nemours and Company a reasonable royalty for all use and enjoyment by said defendant of the inventions and discoveries covered by said Letters Patent under Federal Trade Commission License No. 19 dated January 21, 1918 and under said License as amended by order of said Commission dated January 14, 1920; and

Fourth. That the plaintiff having in its bill of complaint limited its claim to such recovery to all such use and enjoyment for the period from on and after April 10, 1919, do recover from the defendant E. I. du Pont de Nemours and Company a reasonable reasonable royalty for all use [fol. 193] and enjoyment of the inventions and discoveries covered by said Letters Patent by said defendant E. I. du Pont de Nemours and Company pursuant to said License and to said License as amended for the period from on and after April 10, 1919, with interest thereon, the account to be taken and stated and such reasonable royalty ascertained by proceedings appropriate for such purpose; and

Fifth. That upon the taking and stating of said account and the ascertainment of said reasonable royalty and after consideration thereof by this Court the plaintiff shall have a final decree herein against the defendant E. I. du Pont de Nemours and Company for the amount of such reasonable royalty for the use and enjoyment of the inventions and discoveries covered by said Letters Patent by said E. I. du Pont de Nemours and Company for the period from on and after April 10, 1919 as this Court shall thereby

determine, with interest thereon, and costs to be taxed by the Clerk, and that said final decree shall further provide that the defendant the Treasurer of the United States forthwith pay over to the plaintiff the fund deposited with him by the Alien Property Custodian representing payments by the defendant E. I. du Pont de Nemours and Company, pursuant to the terms of said License and of said License as amended, for and on account of its use and enjoyment under said License and said License as amended of the inventions and discoveries covered by said Letters Patent, together with all income from said fund and increment thereof to the extent that said fund and the income and increment thereof do not exceed the amount of the said reasonable royalty, interest and costs theretofore by said final decree directed to be paid to the plaintiff by said defendant E. I. du Pont de Nemours and Company for its said use and enjoyment of the inventions and discoveries covered by said Letters Patent for the period from on and [fol. 194] after April 10, 1919, such payment when received by the plaintiff to be applied by it as a payment by said defendant E. I. du Pont de Nemours and Company on account of the amount so directed to be paid by said defendant to the plaintiff by said final decree.

(Sgd.) Hugh M. Morris, J.

IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

ORDER DENYING MOTION FOR SUBSTITUTION—Filed December 15, 1928

And now, to-wit, this fifteenth day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 487 in Equity, Deutsche Gold & Silber Scheide Anstalt Vormals Roessler v. E. I.

du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 487 In Equity, Deutsche Badische Anilin & Soda Fabrik v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United [fol. 195] States, No. 495 In Equity (the last mentioned cause to the extent of the issues therein relating to Federal Trade Commission License No. 19), and the motion filed herein by Howard Sutherland, as Alien Property Custodian of the United States, to be substituted as plaintiff in this cause for and instead of the plaintiff Farbwerke Vormals Meister, Lucius & Bruning, having come on to be heard, and argued by counsel, thereupon, upon consideration thereof, it is

Ordered by the Court that the said motion be and the same is hereby denied.

(Sgd.) Hugh M. Morris, J.

In United States District Court for the District of Delawake

No. 492. In Equity

Farbwerke Vormals Meister, Lucius & Bruning, Plaintiff,

v.

E. I. du Pont de Nemours and Company (a Corporation) and Frank White, as Treasurer of the United States, Defendants

Decree Dismissing Bill—Filed December 15, 1928

And now, to-wit, this 15th day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 487 in Equity, [fol. 196] Deutsche Gold & Silber Schneide Anstalt Vormals Roessler v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 494 In Equity, and Badische Anilin & Soda Fabrik v. E. I. du

Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 495 In Equity (the last mentioned cause to the extent of the issues therein relating to Federal Trade Commission License No. 19), and the defendant, Frank White, as Treasurer of the United States having in open court abandoned his motion made in his answer to dismiss the bill of complaint, and the plaintiff having in open court limited its claims as set forth in the bill to recovery from the defendant, E. I. du Pont de Nemours and Company of a reasonable royalty for all use and enjoyment to said defendant of the patented inventions referred to in the bill under the license therein mentioned to the period prior to April 10, 1919, and waived its claim to any recovery from said defendant for any such use and enjoyment subsequent to that date, and the cause having come on to be heard at this term, and argued by counsel; thereupon, upon consideration thereof, it is

Ordered, adjudged and decreed by the Court, that the motion to dismiss made in the answer of the defendant, E. I. du Pont de Nemours and Company be and hereby is granted, and that the bill of complaint filed herein be and it hereby is dismissed with costs to be taxed by the clerk.

(Sgd.) Hugh M. Morris, J.

[fol. 197] IN UNITED STATES DISTRICT COURT

No. 494

[Title omitted]

ORDER DENYING MOTION FOR SUBSTITUTION—Filed December 15, 1928.

And now, to-wit, this 15th day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 487 In Equity, Farbwerke Vormals Meister, Lucius & Bruning v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 492 In Equity, and Badische

Anilin & Soda Fabrik v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 495 In Equity (the last mentioned cause to the extent of the issues therein relating to Federal Trade Commission License No. 19), and the motion filed herein by Howard Sutherland, as Alien Property Custodian of the United States, to be substituted as plaintiff in this cause for and instead of the plaintiff Deutsche Gold & Silber Scheide [fol. 198] Anstalt Vormals Roessler, having come on to be heard, and argued by counsel, thereupon, upon consideration thereof it is

Ordered by the Court that said motion be and the same hereby is denied.

(Sgd.) Hugh M. Morris, J.

In United States District Court for the District of Delaware

No. 494. In Equity

Deutsche Gold & Silber Scheid Anstalt Vormals Roessler, Plaintiff,

v.

E. I. du Pont de Nemours and Company (a Corporation) and Frank White, as Treasurer of the United States, Defendants

Decree Dismissing Bill—Filed December 15, 1928

And now, to-wit, this 15th day of December, A. D. 1928, this cause having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 487 In Equity, Farbwerke Vormals Meister, Lucius & Bruning v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 492 In Equity, and Badische Anilin & Soda Fabrik v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United

States, No. 495 In Equity (the last mentioned cause to the [fol. 199] extent of the issues therein relating to Federal Trade Commission License No. 19), and the defendant, Frank White, as Treasurer of the United States having in open court abandoned his motion made in his answer to dismiss the bill of complaint, and the plaintiff having in open court limited its claim as set forth in the bill to a recovery from the defendant, E. I. du Pont de Nemours and Company of a reasonable royalty for all use and enjoyment by said defendant of the patented inventions referred to in the bill under the license therein mentioned to the period prior to April 10, 1919, and waived its claim to any recovery from said defendant for any such use and enjoyment subsequent to that date, and the cause having come on to be heard at this term, and argued by counsel; thereupon, upon consideration thereof, it is

Ordered, adjudged and decreed by the Court, that the motion to dismiss made in the answer of the defendant, E. I. du Pont de Nemours and Company, be and hereby is granted, and that the bill of complaint filed herein be and it hereby is dismissed with costs to be taxed by the clerk.

(Sgd.) Hugh M. Morris, J.

[fol. 200] IN UNITED STATES DISTRICT COURT

No. 495

[Title omitted]

ORDER DENYING MOTION FOR SUBSTITUTION—Filed December 15, 1928

And now, to-wit, this fifteenth day of December, A. D. 1928, this cause to the extent of the issues herein relating to Federal Trade Commission License No. 19, having by order of October 6, 1927, been consolidated for trial with the causes pending in this court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 487 In Equity, Farbwerke Vormals, Meister, Lucius & Bruning v. E. I. du Pont de Nemours and Com-

pany and Frank White, as Treasurer of the United States, No. 492 In Equity, and Deutsche Gold & Silber Scheide Anstalt Vormals Roessler v. E. I. du Pont de Nemours and Company and Frank White, as Treasurer of the United States, No. 494 In Equity, and the motion filed herein by Howard Sutherland, as Alien Property Custodian of the United States, to be substituted as plaintiff in this cause for and instead of the plaintiff Badische Anilin & Soda [fol. 201] Fabrik, having come on to be heard, and argued by counsel, thereupon, upon consideration thereof, it is

Ordered by the Court that said motion be and the same hereby is denied.

(Sgd.) Hugh M. Morris, J.

In United States District Court for the District of Delaware

No. 495. In Equity

Badische Anilin & Soda Fabrik, Plaintiff,

v.

E. I. du Pont de Nemours and Company (a Corporation) and Frank White, as Treasurer of the United States, Defendants

Decree Dismissing Bill—Filed December 15, 1928

And now, to wit, this fifteenth day of December, A. D. 1928, this cause to the extent of the issues herein relating to Federal Trade Commission License No. 19, having by order of October 6, 1927, been consolidated for trial with the causes pending in this Court entitled The Chemical Foundation, Incorporated, v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 487 In Equity, Farbwerke Vormals Meister, Lucius & Bruning v. E. I. du Pont de Nemours and Company, and Frank White, as Treasurer of the United States, No. 492 In Equity, and Deutsche Gold & Silber Scheide Anstalt Vormals Roessler v. E. I. du Pont de Nemours and [fol. 202] Company, and Frank White, as Treasurer of the

United States, No. 494 In Equity, and the defendant, Frank White, as Treasurer of the United States having in open court abandoned his motion made in his answer to dismiss the bill of complaint, and the plaintiff having in open court limited its claim as set forth in the bill to a recovery from the defendant, E. I. du Pont de Nemours and Company, of a reasonable royalty for all use and enjoyment by said defendant of the patented inventions referred to in the bill under the license therein mentioned to the period prior to April 10, 1919, and waived its claim to any recovery from said defendant for any such use and enjoyment subsequent to that date, and the cause having come on to be heard at this term, and argued by counsel; thereupon, upon consideration thereof, it is

Ordered, Adjudged and Decreed by the Court, that the motion to dismiss made in the answer of the defendant, E. I. du Pont de Nemours and Company, be and hereby is granted, and that the bill of complaint filed herein be and it hereby is dismissed with costs to be taxed by the Clerk

(Sgd.) Hugh M. Morris, J.

[fol. 203] In United States District Court

No. 487

[Title omitted]

Petition for Appeal—Filed March 13, 1929

Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning, plaintiffs in three suits respectively numbered 494, 495 and 492 In Equity, which, by order of this Court dated October 6, 1927, were consolidated with the above entitled suit, numbered 487 In Equity, conceiving themselves aggrieved by the interlocutory decree made and entered herein by this Honorable Court, do hereby appeal from said decree to the United States Circuit Court of Appeals for the Third Circuit for the reasons specified in the assignment of errors which is filed herewith, and pray that this appeal may be allowed and that a

transcript of the record, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Third Circuit. Said plaintiffs further pray the Court that, since the entire evidence in this cause was stipulated in the form of a narrative statement, the parties hereto be relieved of any further requirement of reducing the evidence herein to narrative form and that said stipulation as to the [fol. 204] facts be taken as and for a narrative statement of the evidence herein, to be inserted and included in the transcript of the record to be forwarded to said United States Circuit Court of Appeals for the Third Circuit, and that this Court enter an order to that effect.

Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik, and Farbwerke Vormals Meister, Lucius & Bruning.
(Sgd.) Chas. F. Curley, Wilmington, Delaware;
O'Gorman, Battle, Vandiver & Levy, No. 37 Wall Street, New York, N. Y.; Cravath, de Gersdorff, Swaine & Wood, 15 Broad Street, New York, N. Y.,
Their Solicitors.

Dated Wilmington, Delaware, March 13, 1929.

[fol. 205] IN UNITED STATES DISTRICT COURT

No. 487

[Title omitted]

ORDER ALLOWING APPEAL—Filed March 13, 1929

Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning, plaintiffs in three suits respectively numbered 494, 495 and 492 In Equity, which by order of this Court dated October 6, 1927, were consolidated with the above-entitled suit, having this day filed their petition for appeal to the United States Circuit Court of Appeals for the Third Circuit and their assignment of errors, and having further prayed that the stipulation as to the facts heretofore filed herein be taken as and for the

narrative statement of evidence herein and that they be relived of any further requirement of reducing the evidence herein to narrative form, it is, this thirteenth day of March, 1929,

Adjudged, ordered and decreed that the claim of appeal from the interlocutory decree made herein on the fifteenth day of December, 1928, of Deutsche Gold and Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik [fol. 206] and Farbwerke Vormals Meister, Lucius & Bruning, plaintiffs in three suits respectively numbered 494, 495 and 492 In Equity, which by order of this Court dated October 6, 1927, were consolidated with the above-entitled suit, be, and the same hereby is allowed, and that the stipulation as to the facts heretofore filed herein be taken as and for the condensed narrative statement of the evidence herein, and that said plaintiffs be, and they hereby are, relieved of any further requirement of reducing the evidence to narrative form, and that said stipulation as to the facts shall be included and inserted in the transcript of the record to be forwarded to the United States Circuit Court of Appeals for the Third Circuit in lieu of any further narrative statement of the evidence herein; and it is

Further ordered that an undertaking for costs shall be given by the appellants jointly in the sum of $250.

(Sgd.) Hugh M. Morris, Judge of the United States District Court for the District of Delaware.

[fol. 207] In United States District Court

No. 487

[Title omitted]

Assignment of Errors.—Filed March 13, 1929

Now come Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning, plaintiffs in three suits respectively numbered 494, 495 and 492 In Equity, which, by order of this Court dated October 6, 1927, were consolidated with the above-entitled suit and file

the following assignment of errors upon which they will rely upon their prosecution of their appeal in the above-entitled suit from the interlocutory decree made by this Honorable Court on the fifteenth day of December, 1928, ordering, adjudging and decreeing among other things, that the plaintiff above named, The Chemical Foundation, Incorporated, do recover from the defendant above named, E. I. du Pont de Nemours and Company, a reasonable royalty for all use and enjoyment of the inventions and discoveries covered by certain letters patent pursuant to a certain license and ordering, adjudging and decreeing that an account be taken and stated and such reasonable royalty ascertained by proceedings appropriate for such purpose, [fol. 208] and assign error in the following matters, to wit:

First. The Court erred in ordering, adjudging and decreeing in paragraph first of said interlocutory decree that the plaintiff, The Chemical Foundation, Incorporated, became on April 10, 1919, and has ever since been and now is the sole owner of the Letters Patent of the United States Nos. 680,395, 868,294 and 718,340 and of the inventions and discoveries covered thereby and of every right, title and interest therein, including in particular the right inuring to the "owner" of said letters patent, under and by virtue of Section 10-f as originally enacted of the Act of Congress known as the Trading with the Enemy Act, to sue and recover for the use and enjoyment of the inventions and discoveries covered by said letters patent by any person or persons licensed under other provisions of said Act to use and enjoy the same.

Second. The Court erred in ordering, adjudging and decreeing in paragraph second of said interlocutory decree that the right of recovery so held to belong to said plaintiff, The Chemical Foundation, Incorporated, embraces the right to recover for all use and enjoyment of the inventions and discoveries covered by said letters patent by every and all such person or persons so licensed, without regard to whether or not such use and enjoyment was wholly or in part before or after said April 10, 1919, and is unaffected by the amendment of said Section 10-f of said Act by Section 19 of the Act of Congress known as the Settlement of War Claims Act of 1928, or by any other amendment of said section of said Trading with the Enemy Act.

[fol. 209] Third. The Court erred in ordering, adjudging and decreeing in paragraph third of said interlocutory decree that said plaintiff, The Chemical Foundation, Incorporated, is entitled to recover from the defendant E. I. du Pont de Nemours and Company a reasonable royalty for all use and enjoyment by said defendant of the inventions and discoveries by said letters patent under Federal Trade Commission License No. 19, dated January 21, 1918 and under said license as amended by order of said Commission dated January 14, 1920.

Fourth. The Court erred in ordering, adjudging and decreeing in paragraph fourth of said interlocutory decree that said plaintiff, The Chemical Foundation, Incorporated, having in its bill of complaint limited its claim to such recovery to all such use and enjoyment for the period from on and after April 10, 1919, do recover from the defendant E. I. du Pont de Nemours and Company a reasonable royalty for all use and enjoyment of the inventions and discoveries covered by said letters patent by said defendant E. I. du Pont de Nemours and Company pursuant to said license and to said license as amended for the period from on and after April 10, 1919, with interest thereon, the account to be taken and stated and such reasonable royalty ascertained by proceedings appropriate for such purpose.

Fifth. The Court erred in ordering, adjudging and decreeing in paragraph fifth of said interlocutory decree that upon the taking and stating of said account and the ascertainment of said reasonable royalty, and after consideration thereof by this Court, the plaintiff shall have a final decree herein against the defendant E. I. du Pont de Nemours and Company for the amount of such reasonable royalty for the use and enjoyment of the inventions and [fol. 210] discoveries covered by said letters patent by said E. I. du Pont de Nemours and Company for the period from on and after April 10, 1919, as this Court shall thereby determine, with interest thereon, costs to be taxed by the Clerk, and that said final decree shall further provide that the defendant the Treasurer of the United States forthwith pay over to the plaintiff the fund deposited with him by the Alien Property Custodian representing payments by the defendant E. I. du Pont de Nemours and Company,

pursuant to the terms of said license and of said license and of said license as amended, for and on account of its use and enjoyment under said license and said license as amended of the inventions and discoveries covered by said letters patent, together with all income from said fund and increment thereof, to the extent that said fund and the income and increment thereof do not exceed the amount of the said reasonable royalty, interest and costs theretofore by said final decree directed to be paid to the plaintiff by said defendant E. I. du Pont de Nemours and Company for its said use and enjoyment of the inventions and discoveries covered by said letters patent for the period from on and after April 10, 1919, such payment when received by the plaintiff to be applied by it as a payment by said defendant E. I. du Pont de Nemours and Company on account of the amount so directed to be paid by said defendant to the plaintiff by said final decree.

Sixth. The Court erred in holding that Badische Anilin & Soda Fabrik was not, and in not holding that it was, the owner of the letters patent of the United States No. 718,340 within the meaning of Section 10 (f) of the Trading with the Enemy Act.

Seventh. The Court erred in holding that Badische Anilin & Soda Fabrik was not, and in not holding that it was, the [fol. 211] owner of United States Letters Patent No. 718,340 within the meaning of Section 10 (f) of the Trading with the Enemy Act as amended by Section 19 of the Act of Congress known as Settlement of War Claims Act of 1928 approved March 10, 1928.

Eighth. The Court erred in holding that Farbwerke Vormals Meister, Lucius & Bruning was not and in not holding that it was, the owner of the Letters Patent of the United States No. 868,294 within the meaning of Section 10(f) of the Trading with the Enemy Act.

Ninth. The Court erred in holding that Farbwerke Vormals Meister, Lucius & Bruning was not, and in not holding that it was, the owner of United States Letters Patent No. 868,294 within the meaning of Section 10 (f) of the Trading with the Enemy Act as amended by Section 19 of the Act of Congress known as Settlement of War Claims Act of 1928 approved March 10, 1928.

Tenth. The Court erred in holding that Deutsche Gold & Silber Scheide Anstalt Vormals Roessler was not, and in not holding that it was, the owner of the letters patent of the United States No. 680,395 within the meaning of Section 10 (f) of the Trading with the Enemy Act.

Eleventh. The Court erred in holding that Deutsche Gold & Silber Scheide Anstalt Vormals Roessler was not, and in not holding that it was, the owner of United States Letters Patent No. 680,395, within the meaning of Section 10 (f) of the Trading with the Enemy Act as amended by Section 19 of the Act of Congress known as Settlement of War Claims Act of 1928 approved March 10, 1928.

Twelfth. The Court erred in holding that the seizure of the Letters Patent of the United States Nos. 680,395, [fol. 212] 868,294, and 718,340, embraced the right to accrued royalties from the time the license to the defendant E. I. du Pont de Nemours and Company was granted by the Federal Trade Commission.

Thirteenth. The Court erred in holding that the Alien Property Custodian having been empowered to seize and under such power having seized the rights to accrued royalties became the owner of the rights to accrued royalties and by virtue of the various assignments vested in the plaintiff, The Chemical Foundation, Incorporated, the complete ownership of the right to receive from the defendant E. I. du Pont de Nemours and Company the accrued royalties originally belonging to the several enemy owners of said several United States letters patent.

Fourteenth. The Court erred in holding that the express limitation of the relief sought by the plaintiff, The Chemical Foundation, Incorporated, to the royalties that accrued under the license subsequent to the assignment of said several letters patent by the Alien Property Custodian to it on April 10, 1919, does not entitle said several enemy owners of said several letters patent to recover said royalties accruing prior to April 10, 1919.

Fifteenth. The Court erred in holding that the amendment approved on March 10, 1928, to Section 10 (f) of the Trading with the Enemy Act was unconstitutional by virtue

of the provisions of the Fifth Amendment to the Constitution of the United States.

Sixteenth. The Court erred in holding that by virtue of the provisions of the Fifth Amendment to the Constitution of the United States the amendment approved March 10, 1928, to Section 10 (f) of the Trading with the Enemy Act was unconstitutional since it is undisputed that said [fol. 213] amendment approved March 10, 1928, did not deprive the defendant E. I. du Pont de Nemours and Company of any property and no question as to the unconstitutionality of said amendment was raised or involved as between Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning and the plaintiff, The Chemical Foundation, Incorporated.

Seventeenth. The Court erred in holding that Section 19 of the Act of Congress known as Settlement of War Claims Act of 1928, amending Section 10 (f) of the Trading with the Enemy Act did not confirm in the plaintiffs Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik, and Farbwerke Vormals Meister, Lucius & Bruning the right to recover, severally and respectively, from the defendant E. I. du Pont de Nemours and Company for all use and enjoyment of the inventions and discoveries covered respectively by said several letters patent prior to April 10, 1919.

Eighteenth. The Court erred in holding that plaintiffs Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning were not respectively entitled to recover from the defendant E. I. du Pont de Nemours and Company a reasonable royalty for all use and enjoyment prior to April 10, 1919, by said defendant of the inventions and discoveries covered respectively by said several letters patent under Federal Trade Commission License No. 19 dated January 21, 1918, and under said license as amended by order of said Commission dated January 14, 1920.

Nineteenth. The Court erred in holding that the war powers of Congress with respect to royalties under said [fol. 214] several patents accrued prior to April 10, 1919,

were functus officio at the time of the passage of Section 19 of the Settlement of War Claims Act of 1928, approved March 10, 1928.

Wherefore said plaintiffs Deutsche Gold and Silber Scheide Anstalt Vormals Roessler, Badische Anilin & Soda Fabrik and Farbwerke Vormals Meister, Lucius & Bruning pray that said interlocutory decree in the above-entitled cause may be reversed and set aside and that said plaintiffs may be granted appropriate relief in the premises in accordance with the prayers of their respective bills of complaint herein.

Deutsche Gold & Silber Scheide Anstalt Vormals Roessler, Badsiche Anilin & Soda Fabrik, Farbwerke Vormals Meister, Lucius & Bruning, by (Sgd.) Chas F. Curley, Wilmington, Delaware; O'Gorman, Battle, Vandiver & Levy, 37 Wall Street, New York City; Cravath, de Gersdorff, Swaine & Wood, 15 Broad Street, New York City, Their Solicitors.

[fols. 215 & 216] Citation, in usual form, showing service on Wm. G. Mahaffy et al., filed March 19, 1929, omitted in printing.

[fol. 217] In United States District Court

No. 492

[Title omitted]

Petition for Appeal—Filed March 8, 1929

The above-named plaintiff conceiving itself aggrieved by the decree made and entered herein on the fifteenth day of December, A. D. 1928, in the above-entitled cause, does hereby appeal from said decree to the United States Circuit Court of Appeals for the Third Circuit for the reasons specified in the assignment of errors which is filed herewith and it prays that this appeal may be allowed and that a

transcript of the record, proceedings and papers upon which said order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Third Circuit. Said plaintiff further prays the court that since the entire evidence in this cause was stipulated in the form of a narrative statement that the parties hereto be relieved of any further requirement of reducing the evidence herein to narrative form and that said stipulation as to the facts be taken as and for a narrative statement of the evidence herein and that this Court enter an order to that effect, to be inserted and included in the transcript of the record to be [fol. 218] forwarded to said United States Circuit Court of Appeals for the Third Circuit.

Farbwerke Vormals Meister, Lucius & Bruning, by
(Sgd.) Chas. F. Curley, Solicitor.

Dated Wilmington, Delaware, March 8, 1929.

[Note.—A similar petition for appeal filed in causes Nos. 494 and 495, and not reprinted here.]

In United States District Court

No. 492

[Title omitted]

Order Allowing Appeal—Filed March 8, 1929

The plaintiff herein having this day filed its petition for appeal to the United States Circuit Court of Appeals for the Third Circuit and its assignment of errors, and it having further prayed that the stipulation as to the facts heretofore filed herein be taken as and for the narrative statement [fol. 219] of the evidence herein and that the plaintiff be relieved of any further requirement of reducing the evidence herein to narrative form, it is this eighth day of March, 1929,

Adjudged, ordered and decreed that plaintiff's claim of appeal be and the same hereby is allowed and that the stipulation as to the facts heretofore filed herein may be taken as

and for the condensed narrative statement of the evidence herein, and that the plaintiff be and it hereby is relieved of any further requirement of reducing the evidence to narrative form, and that said stipulation as to the facts shall be included and inserted in the transcript of the record to be forwarded to the said United States Circuit Court of Appeals for the Third Circuit in lieu of any further narrative statement of the evidence herein. Bond to be given by the appellant in the sum of two hundred and fifty dollars.

(Sgd.) Hugh M. Morris, Judge of the United States District Court for the District of Delaware.

[NOTE.—A similar order allowing appeal entered in causes Nos. 494 and 495, and not reprinted here.]

[fol. 220] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

ASSIGNMENT OF ERRORS—Filed March 8, 1929

Now comes Farbwerke Vormals Meister, Lucius & Bruning, the plaintiff in the above-entitled suit and files the following assignment of errors upon which it will reply upon its prosecution of the appeal in the above-entitled suit from the decree made by this Honorable Court on the fifteenth day of December, 1928, granting the motion to dismiss made in the answer of the defendant E. I. du Pont de Nemours and Company, and dismissing the bill of complaint of the plaintiff filed herein, and assigns error in the following matters, to wit:

First. The Court erred in holding that the plaintiff herein, Farbwerke Vormals Meister, Lucius & Bruning, was not and in not holding that it was the owner of the several letters patent mentioned in the bill of complaint herein within the meaning of Section 10 (f) of the Trading with the Enemy Act.

[fol. 221] Second. The Court erred in holding that the plaintiff herein, Farbwerke Vormals Meister, Lucius & Bruning, was not and in not holding that it was the owner of the several letters patent mentioned in the bill of complaint herein within the meaning of Section 10 (f) of the Trading with the Enemy Act as amended by Section 19 of the Act of Congress known as Settlement of War Claims Act of 1928, approved March 10, 1928.

Third. The Court erred in granting the motion to dismiss the bill of complaint of the plaintiff Farbwerke Vormals Meister, Lucius & Bruning made in the motion to dismiss and answer of the defendant E. I. du Pont de Nemours and Company, and erred in dismissing the bill of complaint herein of plaintiff Farbwerke Vormals Meister, Lucius & Bruning and in denying to said plaintiff the relief prayed for in the prayer of said bill of complaint.

Fourth. The Court erred in holding that the seizure by the Alien Property Custodian of the letters patent mentioned in the bill of complaint of the plaintiff Farbwerke Vormals Meisters, Lucius & Bruning embraced the right to accrued royalties from the time the license mentioned in the bill of complaint to the defendant E. I. du Pont de Nemours and Company was granted.

Fifth. The Court erred in holding that the Alien Property Custodian having been empowered to seize, and under such power having seized, the rights of plaintiff Farbwerke Vormals Meister, Lucius & Bruning to accrued royalties became the owner of the rights to accrued royalties and by virtue of the various assignments vested in the plaintiff [fol. 222] The Chemical Foundation, Incorporated, the complete ownership of the right to receive from the defendant E. I. du Pont de Nemours and Company the accrued royalties originally belonging to the plaintiff Farbwerke Vormals Meister, Lucius & Bruning.

Sixth. The Court erred in holding that the express limitation of the relief sought by the plaintiff The Chemical Foundation, Incorporated, to the royalties that accrued under the license subsequent to the assignment of the letters patent by the Alien Property Custodian to it on April 10, 1919, does not entitle the plaintiff Farbwerke Vormals

Meister, Lucius & Bruning to recover said royalties accruing prior to April 10, 1919.

Seventh. The Court erred in holding that the amendment, approved on March 10, 1928, to Section 10 (f) of the Trading with the Enemy Act was unconstitutional by virtue of the provisions of the Fifth Amendment to the Constitution of the Uinted States.

Eighth. The Court erred in holding that by virtue of the provisions of the Fifth Amendment to the Constitution of the United States the amendment, approved March 10, 1928, to Section 10(f) of the Trading with the Enemy Act was unconstitutional since it is undisputed that said amendment, approved March 10, 1928, did not deprive the defendant E. I. du Pont de Nemours and Company of any property and no question of the unconstitutionality of said amendment was raised or involved as between the plaintiff Farbwerke Vormals Meister, Lucius & Bruning and the plaintiff The Chemical Foundation, Incorporated.

Ninth. The Court erred in holding that plaintiff The Chemical Foundation, Incorporated, on April 10, 1919, [fol. 223] became, has ever since been and now is the sole owner of the letters patent of the United States Nos. 680,395, 868,294 and 718,340 and of every right, title and interest therein, including in particular the right inuring to the "owner" of said letters patent under and by virtue of Section 10 (f) as originally enacted of the Act of Congress known as the Trading with the Enemy Act, to sue and recover for the use and enjoyment of the inventions and discoveries covered by said letters patent by any person or persons licensed under other provisions of said act to use and enjoy the same.

Tenth. The Court erred in holding that Section 19 of the Act of Congress known as the Settlement of War Claims Act of 1928 amending Section 10 (f) of the Trading with the Enemy Act did not confirm in the plaintiff Farbwerke Vormals Meister, Lucius & Bruning the rights to recover from the defendant E. I. du Pont de Nemours and Company for all use and enjoyment of the inventions and discoveries covered by said letters patent prior to April 10, 1919.

Eleventh. The Court erred in holding that the plaintiff Farbwerke Vormals Meister, Lucius & Bruning is not en-

titled to recover from the defendant E. I. du Pont de Nemours and Company, a reasonable royalty for all use and enjoyment prior to April 10, 1919, by said defendant of the inventions and discoveries covered by said letters patent under Federal Trade Commission License No. 19, dated January 21, 1918, and under said license as amended by order of said Commission dated January 14, 1920.

Twelfth. The Court erred in holding that the plaintiff Farbwerke Vormals Meister, Lucius & Bruning was not [fol. 224] entitled to an accounting and a final decree herein against the defendant E. I. du Pont de Nemours and Company, for the amount of a reasonable royalty for the use and enjoyment of the inventions and discoveries covered by said letters patent by said E. I. du Pont de Nemours and Company for the period prior to April 10, 1919.

Thirteenth. The Court erred in holding that the plaintiff Farbwerke Vormals Meister, Lucius & Bruning was not entitled to a final decree directing that the defendant Frank White, as Treasurer of the United States, forthwith pay over to said plaintiff the fund deposited with him by the Alien Property Custodian representing payments by the defendant E. I. du Pont de Nemours and Company pursuant to the terms of said license and of said license as amended, for and on account of its use and enjoyment under said license and said license as amended of the inventions and discoveries covered by said letters patent together with all income from said fund and increment thereof, to the extent that said fund and the income and increment thereof do not exceed the amount of the said reasonable royalty, interest and cost theretofore by said final decree directed to be paid to the plaintiff by said defendant for its said use and enjoyment of the inventions and discoveries covered by said letters patent for the period prior to April 10, 1919, such payment when received by the plaintiff to be applied by it as a payment by said defendant on account of the amount so directed to be paid by said defendant to the plaintiff by said final decree.

Fourteenth. The Court erred in holding that the war powers of Congress with respect to royalties under said patents accrued prior to April 10, 1919, were functus officio [fol. 225] at the time of the passage of Section 19 of the

Settlement of War Claims Act of 1928, approved March 10, 1928.

Wherefore the plaintiff, Farbwerke Vormals Meister, Lucius & Bruning, prays that the decree in this cause dismissing its bill of complaint herein may be reversed and that plaintiff may be granted appropriate relief in the premises in accordance with the prayer of its bill of complaint herein.

Farbwerke Vormals Meister, Lucius & Bruning, by (Sgd.) Chas. F. Curley, Wilmington, Delaware; Cravath, de Gersdorff, Swaine & Wood, No. 15 Broad Street, New York City, Solicitors for Plaintiff.

[Note.—Similar assignments of error filed in Causes Nos. 494 and 495, and not reprinted here.]

[fols. 226 & 227] Citation, in usual form, showing service on J. P. Laffey et al., filed March 19, 1929, omitted in printing.

[fol. 228] In United States District Court

No. 487

[Title omitted]

Petition for Appeal—Filed March 12, 1929

Walter O. Woods, one of the above-named defendants, conceiving himself aggrieved by the decrees made and entered on the fifteenth day of December, 1928, in the above-entitled cause, does hereby appeal from said orders and decrees to the United States Circuit Court of Appeals for the Third Circuit for the reasons specified in the assignment of errors which is filed herewith, and he prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said decrees were made,

duly authenticated, may be sent to the United States Circuit Court of Appeals for the Third Circuit.

(Sgd.) Leonard E. Wales, United States Attorney for the District of Delaware; (Sgd.) Thomas E. Rhodes, Special Assistant to the Attorney General, Attorneys for the Defendant Walter O. Woods, as Treasurer of the United States.

[fol. 229] In United States District Court

No. 487

[Title omitted]

Order Allowing Appeal—Filed March 12, 1929

The defendant, Walter O. Woods, as Treasurer of the United States, having this day filed in open court his petition for appeal to the United States Circuit Court of Appeals for the Third Circuit from the decree entered in the above-entitled case on the fifteenth day of December, 1928, denying the motion to dismiss the plaintiff's bill of complaint filed by the Treasurer of the United States, and from the decree entered on the same date in favor of the plaintiff, and having also filed his assignment of errors, it is this the twelfth day of March, 1929,

Adjudged, ordered and decreed that said defendant's appeal be and the same is hereby allowed.

(Sgd.) Hugh M. Morris, United States District Judge for the District of Delaware.

[fol. 230] In United States District Court

No. 487

[Title omitted]

Assignment of Errors—Filed March 12, 1929

Now comes the defendant, Walter O. Woods, as Treasurer of the United States, and files the following assignment of

errors upon which he will rely in the prosecution of his appeal from the decrees made and entered herein on the fifteenth day of December, 1928, denying his motion to dismiss the bill of complaint, and in granting the relief prayed for by the plaintiff, the Chemical Foundation, Incorporated:

1. The Court erred in denying the motion to dismiss the bill of complaint filed by the defendant, the Treasurer of the United States.

2. The Court erred in granting the relief prayed for by the plaintiff, the Chemical Foundation, Incorporated.

3. The Court erred in holding that the plaintiff, the Chemical Foundation, Incorporated, as assignee of the [fol. 231] Alien Property Custodian of the patents described in the bill of complaint was entitled to receive the royalty which had accrued prior to April 10, 1919, under the license of said patents by the Federal Trade Commission to the E. I. du Pont de Nemours & Company described in said bill of complaint.

4. The Court erred in holding that the Chemical Foundation, Incorporated as assignee of the Alien Property Custodian of the patents described in the bill of complaint, was entitled to receive the royalty which accrued under the license thereof by the Federal Trade Commission to the E. I. du Pont de Nemours & Company from April 10, 1919, to the date of the cancellation of such license.

5. The Court erred in refusing to hold that the royalty paid in under the licenses referred to in the bill of complaint was the property of the United States which the Alien Property Custodian had no authority to assign to the Chemical Foundation, Incorporated.

6. The Court erred in holding that the Alien Property Custodian assigned to the plaintiff any royalty, or the right to receive royalty, due under the licenses of the Federal Trade Commission on the patents described in the bill of complaint.

7. The Court erred in holding that the amendment to Section 10. (f) of the Trading with the Enemy Act, approved March 10, 1928, known as the "Settlement of War

Claims Act of 1928," was unconstitutional by virtue of the Fifth Amendment to the Constitution of the United States.

8. The Court erred in holding that by virtue of the provisions of the Fifth Amendment to the Constitution of the [fol. 232] United States the amendment, approved March 10, 1928, to Section 10 (f) of the Trading with the Enemy Act was unconstitutional since it is undisputed that said amendment, approved March 10, 1928, did not deprive the defendant, the E. I. du Pont de Nemours & Company, of any property.

9. The Court erred in holding that the plaintiff, the Chemical Foundation, Incorporated, was entitled by virtue of Section 10 (f) of the Trading with the Enemy Act to sue and recover for the use and enjoyment of the patents described in the bill of complaint by the E. I. du Pont de Nemours & Company under the license of the Federal Trade Commission.

Wherefore the defendant prays that the aforesaid decrees be reversed, set aside and vacated and that he be granted such relief in the premises to which he may be justly and equitably entitled.

(Sgd.) Leonard E. Wales, United States Attorney for the District of Delaware; (Sgd.) Thomas E. Rhodes, Special Assistant to the Attorney General, Attorneys for the Defendant Walter O. Woods, as Treasurer of the United States.

[fols. 233 & 234] Citation, in usual form, showing service on J. P. Caffey et al., filed March 19, 1929, omitted in printing.

[fol. 235] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

PETITION FOR APPEAL—Filed March 12, 1929

The petitioner, Howard Sutherland, as Alien Property Custodian, conceiving himself aggrieved by the decree

made and entered in the above-entitled cause on the fifteenth day of December, 1928, denying his motion for substitution as plaintiff for and instead of the Farbwerke vormals Meister, Lucius & Bruning, does hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Third Circuit for the reasons specified in the assignment of errors which is filed herewith, and he prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said decree was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Third Circuit.

(Sgd.) Leonard E. Wales, United States Attorney for the District of Delaware; (Sgd.) Thomas E. Rhodes, Special Assistant to the Attorney General, Attorneys for the Petitioner.

[fol. 236] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

ORDER ALLOWING APPEAL—Filed March 12, 1929

The petitioner, Howard Sutherland, as Alien Property Custodian, having this day filed in open court his petition for appeal to the United States Circuit Court of Appeals for the Third Circuit from the decree entered in the above-entitled case on the fifteenth day of December, 1928, denying his motion for substitution as plaintiff for and instead of the Farbwerke vormals Meister, Lucius & Bruning, and having also filed his assignment of errors, it is this twelfth day of March, 1929,

Adjudged, Ordered and decreed that said petitioner's appeal be and the same hereby is allowed.

(Sg.) Hugh M. Morris, U. S. District Judge for the District of Delaware.

[fol. 237] IN UNITED STATES DISTRICT COURT

No. 492

[Title omitted]

ASSIGNMENT OF ERRORS—Filed March 12, 1929

Now comes the petitioner, Howard Sutherland, as Alien Property Custodian of the United States, and files the following assignment of errors upon which he will rely in the prosecution of his appeal from the decree made and entered herein on the fifteenth day of December, 1928, denying his motion for substitution as plaintiff in said case for and instead of the Farbwerke Vormals Meister, Lucius & Bruning:

1. The Court erred in denying the motion of the petitioner for substitution as plaintiff for and instead of the above-named plaintiff.

2. The Court erred in holding that the petitioner was not entitled by virtue of Section 10 (f) of the Trading with the Enemy Act, as amended by Section 19 of the Settlement of War Claims Act of 1928, approved March 10, 1928, to be substituted as plaintiff for and instead of the above-named plaintiff and to recover from the defendants a reasonable royalty for the use and enjoyment of the patent described in the bill of complaint by the E. I. du Pont de Nemours & [fol. 238] Company under a license from the Federal Trade Commission.

3. The Court erred in dismissing the plaintiff's bill of complaint.

4. The Court erred in holding that the Chemical Foundation, Incorporated, as assignee of the Alien Property Custodian of the patent described in the bill of complaint was entitled to receive the royalty which had accrued prior to April 10, 1919, under the license of said patent by the Federal Trade Commission to the E. I. du Pont de Nemours & Company described in said bill of complaint.

5. The Court erred in holding that the Chemical Foundation, Incorporated, as assignee of the Alien Property Custodian of the patent described in the bill of complaint, was entitled to receive the royalty which accrued under the license thereof by the Federal Trade Commission to the

E. I. du Pont de Nemours & Company from April 10, 1919, to the date of the cancellation of such license.

6. The Court erred in refusing to hold that the royalty paid in under the license referred to in the bill of complaint was the property of the United States which the Alien Property Custodian had no authority to assign to the Chemical Foundation, Incorporated.

7. The Court erred in holding that the Alien Property Custodian assigned to the Chemical Foundation, Incorporated, any royalty, or the right to receive royalty, due under the licenses of the Federal Trade Commission on the patent described in the bill of complaint.

8. The Court erred in holding that the amendment to Section 1 (f) of the Trading with the Enemy Act, approved March 1, 1928, known as the "Settlement of War Claims [fol. 239] Act of 1928," was unconstitutional by virtue of the Fifth Amendment to the Constitution of the United States.

9. The Court erred in holding that by virtue of the provisions of the Fifth Amendment to the Constitution of the United States the amendment to Section 10 (f) of the Trading with the Enemy Act, approved March 10, 1928, was unconstitutional since it is undisputed that said amendment, approved March 10, 1928, did not deprive the defendant, the E. I. du Pont de Nemours & Company, of any property.

10. The Court erred in holding that the Chemical Foundation, Incorporated, was entitled by virtue of Section 10 (f) of the Trading with the Enemy Act to sue and recover for the use and enjoyment of the patent described in the bill of complaint by the E. I. du Pont de Nemours & Company under the license of the Federal Trade Commission.

Wherefore the petitioner prays that the aforesaid decree be reversed, set aside and vacated and that he be granted such relief in the premises to which he may be justly and equitably entitled.

(Sgd.) Leonard E. Wales, United States Attorney for the District of Delaware; (Sgd.) Thomas E. Rhodes, Special Assistant to the Attorney General; Attorneys for the Petitioner, Howard Sutherland, as Alien Property Custodian.

[NOTE.—A similar petition for appeal, order allowing appeal and assignments of error filed in causes Nos. 494 and 495 and not reprinted here.]

[fols. 240 & 241] Citation, in usual form, showing service on J. P. Caffey, et al., filed March 19, 1929, omitted in printing.

[fol. 242] IN UNITED STATES DISTRICT COURT

No. 487, No. 492, No. 494, No. 495

[Titles omitted]

STIPULATION AS TO TRANSCRIPT OF RECORD—Filed May 2, 1929

[fol. 243] No. 495

And now, to wit, this thirtieth day of March, A. D. 1929, it is stipulated and agreed by and between counsel for the respective parties, with respect to the transcript of record on the appeals taken in each of the four above-entitled causes in Equity, Nos. 487, 492, 494 and 495, by Farbwerke vormals Meister, Lucius & Bruning, Deutsche Gold & Silber Scheide Anstalt vorm. Rossler, and Badische Anilin- & Soda-Fabrik, plaintiffs in causes Nos. 492, 494 and 495, by Walter O. Woods, as Treasurer of the United States, defendant in cause No. 487, and by Howard Sutherland, as Alien Property Custodian, in causes Nos. 492, 494 and 495, as follows:

1. That the four causes having been considered and tried together, a single consolidated transcript of record on the appeals may be used in the United States Circuit Court of Appeals for the Third Circuit and, with the approval of the Court, that the said causes may be heard together in the said United States Circuit Court of Appeals.

2. That the clerk in making up said consolidated transcript of record shall include therein the following:

(1) The docket entries in each cause.
(2) The bill of complain in each cause.

[fol. 244] (3) Answer of E. I. du Pont de Nemours & Company in cause No. 487.

(4) Consent and order of consolidation filed October 6, 1927.

(5) Motion to dismiss and answer of Frank White, as Treasurer of the United States, filed November 9, 1927, in cause No. 487.

(6) Answer of Frank White, as Treasurer of the United States, filed November 9, 1927, in cause No. 492.

(7) Motion to dismiss and answer of E. I. du Pont de Nemours & Company, filed January 16, 1928, in cause No. 492.

(8) Motion for substitution of Howard Sutherland as Alien Property Custodian, filed April 28, 1928, in cause No. 492.

(9) Answer of Frank White, as Treasurer of the United States, filed November 9, 1927, in cause No. 494.

(10) Motion to dismiss and answer of E. I. du Pont de Nemours & Company, filed January 16, 1928, in cause No. 494.

(11) Motion for substitution of Howard Sutherland as Alien Property Custodian, filed April 28, 1928, in cause No. 494.

(12) Answer of Frank White, as Treasurer of the United States, filed November 9, 1927, in cause No. 495.

(13) Motion to dismiss and answer of E. I. du Pont de Nemours & Company, filed January 16, 1928, in cause No. 495.

[fol. 245] (14) Motion for substitution of Howard Sutherland as Alien Property Custodian, filed April 28, 1928, in cause No. 495.

(15) Stipulation captioned in cause No. 487 and filed April 13, 1928, with exhibits annexed.

(16) Stipulation captioned in all four causes, and filed April 30, 1928, with exhibits annexed.

(17) Opinion of the Court filed November 16, 1928.

(18) Order denying motion of Frank White, as Treasurer of the United States, to dismiss bill filed December 15, 1928, in cause No. 487.

(19) Decree entered December 15, 1928, in cause No. 487.

(20) Order denying motion of Alien Property Custodian

to be substituted as plaintiff, filed December 15, 1928, in cause No. 492.

(21) Final decree dismissing bill of complaint filed December 15, 1928, in cause No. 492.

(22) Order denying motion of Alien Property Custodian to be substituted as plaintiff, filed December 15, 1928, in cause No. 494.

(23) Final decree dismissing bill of complaint filed December 15, 1928, in cause No. 494.

(24) Order denying motion of Alien Property Custodian to be substituted as plaintiff, filed December 15, 1928, in cause No. 495.

(25) Final decree dismissing bill of complaint filed December 15, 1928, in cause No. 495.

(26) Petition of Farbwerke vormals Meister Lucius & Bruning, Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, and Badische Anilin- & Soda-Fabrik for appeal, [fol. 246] order allowing appeal and assignments of error, filed March 13, 1929, in cause No. 487.

(27) Citation on appeals of Farbwerke vormals Meister Lucius & Bruning, Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, and Badische Anilin- & Soda-Fabrik, in cause No. 487.

(28) Petition for appeal of Farbwerke vormals Meister Lucius & Bruning, plaintiff, assignment of error and order allowing appeal in cause No. 492, with notation that a similar petition for appeal, order allowing appeal and assignment of errors were filed and allowed in causes Nos. 494 and 495.

(29) Citation on appeal of Farbwerke vormals Meister Lucius & Bruning in cause No. 492, with notation that a similar citation was issued on appeals of plaintiff in causes Nos. 494 and 495.

(30) Petition for appeal of Walter O. Woods, as Treasurer of the United States, order allowing appeal and assignment of errors filed March 12, 1929, in cause No. 487.

(31) Citation on appeal of Walter O. Woods, as Treasurer of the United States in cause No. 487.

(32) Petition for appeal of Howard Sutherland as Alien Property Custodian, order allowing appeal and assignments of error, filed March 12, 1929, in cause No. 492, with

notation that a similar petition for appeal, order allowing appeal and assignments of error were filed and allowed in causes Nos. 494 and 495.

[fol. 247] (33) Citation on appeal of Howard Sutherland as Alien Property Custodian in cause No. 492, with notation that a similar citation was issued on appeal by Howard Sutherland as Alien Property Custodian in causes Nos. 494 and 495.

(34) This stipulation.

(Sgd.) Leonard E. Wales, United States Attorney for the District of Delaware; (Sgd.) Thomas E. Rhoades, Special Assistant to the Attorney-General, Solicitors for Walter O. Woods, as Treasurer of the the United States, and Howard Sutherland, as Alien Property Custodian. (Sgd.) Wm. G. Mahaffy, Solicitor for The Chemical Foundation, Inc. (Sgd.) Chas. F. Curley, Solicitor for Farbwerke vormals Meister Lucius & Bruning, Deutsche Gold & Silber Scheide Anstalt vörm. Roessler, and Badische Anilin- & Soda-Fabrik. (Sgd.) J. P. Laffey, (Sgd.) Wm. S. Gregg, of Counsel for E. I. du Pont de Nemours & Company.

[fol. 248] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 249] Minute entry of argument and submission November 4, 1929, omitted in printing.

[fol. 250] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 4094, October Term, 1929

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING et al., Appellants,

v.

CHEMICAL FOUNDATION, INC., et al., Appellees

No. 4095, October Term, 1929

W. O. Woods, as Treasurer of United States, Appellant,

v.

Chemical Foundation, Inc., et al., Appellees

No. 4096, October Term, 1929

Farbwerke vormals Meister Lucius & Bruning et al., Appellants,

v.

E. I. du Pont de Nemours & Co. et al., Appellees

No. 4097, October Term, 1929

H. Sutherland, as Alien Property Custodian, Appellant,

v.

Farbwerke vormals Meister Lucius & Bruning et al., Appellees

No. 4098, October Term, 1929

Deutsche Gold & Silber Scheide Anstalt vormals Roessler, Appellants,

v.

E. I. du Pont de Nemours & Co. et al., Appellees

No. 4099, October Term, 1929

H. Sutherland, as Alien Property Custodian, Appellant,

v.

Deutsche Gold & Silber Scheide Anstalt vormals Roessler, Appellees,

[fol. 251] No. 4100, October Term, 1929

Badische Anilin & Soda-Fabrik, Appellant,

v.

E. I. du Pont de Nemours & Co. et al., Appellees

No. 4101, October Term, 1929

H. SUTHERLAND, as Alien Property Custodian, Appellant,

v.

BADISCHE ANILIN & SODA-FABRIK et al., Appellees

On Appeal from the District Court of the United States for the District of Delaware

Before Buffington, Woolley, and Davis, Circuit Judges

OPINION—Filed March 4, 1930

WOOLLEY, Circuit Judge:

The Trading with the Enemy Act (approved October 6, 1917, 40 Stat. Chapter 106), provided by Section 10 that the President be authorized to grant licenses under enemy owned patents to citizens of the United States desiring to practice their inventions when in his opinion such grants would be for the public welfare and tend to the successful prosecution of the war, being authorized within limitations to prescribe the fees, compensation or royalt-es for the privilege. Although by the provision of the Act for the recovery of royalties, to which we shall presently advert and on which these suits are founded, the Congress may at first have had in mind a remedy mainly to enemy owners of patents, particularly in view of the situation at the beginning when the Custodian was "a mere conservator" of seized enemy property without right to sell it except to prevent waste, United States v. Chemical Foundation, Inc., 272 U. S. 1, 10; 71 L. Ed. 131, 141, and when the beneficial interested remained in the enemy owner, yet the Congress by amendments made to the Act from time to time as the war progressed, so enlarged the general scope of the Act that it materially changed its character, Hicks v. Anchor Packing Co., 16 Fed. (2d) 723; United States v. Chemical Foundation, Inc., supra, and at the same time changed, or made certain, the character of the provision in question without changing its wording or, until 1928, without adding any words to it. We shall therefore look upon the provision as it grew through the war and stood in 1922 when these suits were brought. Not knowing what changes in the title

to enemy owned patents on which licenses should be granted might occur during the war, yet realizing that some such patents would retain undisturbed the same status of ownership throughout the war, that other enemy owned patents with outstanding licenses might descend through testacy or intestacy from the original owner, or be sold by him, during the war, and that, perhaps, still others might be seized by the Alien Property Custodian and, as afterward happened, be by him either held or sold during the war, the Congress, looking to the future, provided by Subsection (f) of Section 10 what the owner of such a patent might do after the end of the war and provided broadly enough to meet these and perhaps other situations as follows:

[fol. 252] "The owner of any patent * * * under which a license is granted hereunder may after the end of the war and until the expiration of one year thereafter file a bill in equity against the licensee in the District Court of the United States * * * (to which suit the Treasurer of the United States should be made a party) for recovery from the said licensee for all use and enjoyment of the said patented invention."

Pursuant to this provision, Chemical Foundation, Inc., on June 23, 1922—within one year after the end of the war—filed a bill in equity in the District Court against E. I. Du Pont de Nemours & Company (a corporate licensee) and Frank White, Treasurer of the United States, averring that United States Letters Patent Nos. 680,395, 868,294 and 718,340 had been granted the German inventors therein named; that, in January, 1918, the Federal Trade Commission, acting for the President under authority of the cited section of the Act, granted a license to E. I. du Pont de Nemours & Company under these letters patent requiring it to pay the Alien Property Custodian certain royalties reckoned first on profits derived and later on gross amounts received from the sale of products under the license; that subsequently to granting the license the Custodian (on February 3 and March 22, 1919) seized the patents and every right, title and interest with respect to them, which included the right to royalties under the license; that on April 10, 1919, the Custodian sold to the plaintiff, the

Chemical Foundation, these letters patent and every right, title and interest he had in them, which included the royalties so acquired; that on September 1, 1920, the license was cancelled and surrendered; that, by reason of the aforegoing, the Chemical Foundation became the "owner" of said letters patent and of the royalties accrued to April 10, 1919, the date on which the Custodian sold it the patents with the accompanying license rights, and also the royalties which accrued thereafter; praying (after it had elected not to exercise its right to recover royalties that had accrued prior to the latter date) that an accounting be taken by the court, after fixing a reasonable royalty, to ascertain the amount due it by the defendant licensee after the date last named and also the amounts which the defendant had paid the Alien Property Custodian on account of the license and which he had deposited with the defendant Frank White, as Treasurer of the United States, and, finally, praying for an order upon the Treasurer of the United States to pay it all or so much of the license money so deposited with him as will cover the royalties, and, if insufficient, that it have judgment or decree against the defendant licensee for the residue.

Almost immediately on filing its bill, the Chemical Foundation, plaintiff in the above stated action, became the active or potential defendant, though not the nominal defendant, in sundry other actions and cross proceedings. Three German corporations, severally owning the three patents named in the first suit at the time the license was issued, filed on June 30, 1922 bills in equity in the same District Court against the du Pont Company, the same licensee, and the Treasurer of the United States, relying mainly on Section 10 (f) of the Trading with the Enemy Act as amended by Section 19 of the "Settlement of War Claims Act of 1928," approved March 10, 1928, which provided by a new paragraph to Section 10 (f) that;

"In the case of any such patent * * * conveyed, assigned, transferred, or delivered to the Alien Property Custodian, or seized by him, any suit brought under this sub-section, within the time limit therein, shall be considered as having been brought by the owner within the meaning of this sub-section, in so far as such suit relates to

royalties for the period prior to the sale by the Alien Property Custodian of such patent, if brought either by the [fol. 253] Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent * * * was seized or otherwise acquired by the Alien Property Custodian, * * *"

Each German plaintiff claimed in its bill to be such "owner" and averred, mutatis mutandis, substantially the same facts as the Foundation averred in its bill and prayed for substantially the same relief, (limited, however, to royalties that had accrued prior to April 10, 1919, the date the patents were sold by the Custodian to the Foundation), first against the moneys which the defendant licensee had through the Custodian deposited with the Treasurer of the United States and, if insufficient, then a judgment or decree against the defendant licensee for the residue.

In addition to the contesting claims of ownership of the royalties under the license, made by the Chemical Foundation on the one hand and the group of German corporations on the other, the Alien Property Custodian appeared on April 28, 1928—six years after suit—and moved that he be substituted as plaintiff in each of the actions instituted by the German corporations, on the contention that, under Section 10 (f) of the Trading with the Enemy Act as amended, he is the "owner" of the royalties on the theory that he lawfully acquired them through seizure (by a predecessor in office) from the original German owners; that, though his predecessor sold them with the patents to the Foundation, he was without power to sell them; that, in consequence, they are still his; that he alone is entitled to recover them from the defendant licensee; and that his recovery should be for the use and enjoyment of the patented inventions for the entire time that company used them under the license of the Federal Trade Commission.

And, finally, the Treasurer of the United States moved to dismiss all four bills on the ground that they set forth no cause of action. Abandoning his motion to dismiss the bills filed by the three German corporations, he, however, held to his motion to dismiss the bill filed by the Foundation.

The du Pont Company, the defendant licensee, filed an answer in each suit and made a motion to dismiss in each of the three suits of the German corporations.

The cases were consolidated and tried upon stipulated facts. The defendant licensee did not dispute the right of the Foundation to recover from it a reasonable royalty but as to all else availed itself of the defense which Section 10 (c) of the Act afforded such a licensee. Of this we shall speak later.

The learned trial court by several appropriate decrees denied the motion of the Treasurer of the United States to dismiss, denied also the motion of the Alien Property Custodian to be substituted as plaintiff in the suits by the German corporations, held that the German plaintiffs are not "owners" of the accrued royalties and therefore not entitled to recover them, and, finally, that the Chemical Foundation is the owner of the royalties, accrued and accruing, and, having elected not to press its claim for royalties accrued, is entitled to an accounting by the defendant licensee for reasonable compensation or royalties for the use and enjoyment of the inventions under the letters patent for the period after April 10, 1919, which, when so determined, shall be paid the Foundation by the Treasurer of the United States from the fund made up of payments by the defendant licensee, pursuant to the terms of the license, and deposited with him by the Custodian, and, if insufficient, it should have a decree against the defendant for the residue. All parties, except the Chemical Foundation and the du Pont Company appealed.

[fol. 254] Thus it happens there are three claimants to the royalties paid the Treasurer under the license of the patents in question—the group of German corporate plaintiffs, the Alien Property Custodian and the Chemical Foundation. Their claims are in each instance based on ownership of the royalties. Who owned them? The answer to that question decides the case. But before that question can be answered we must determine who owned the patents, under which the license was granted, at the time the four suits were brought and the Custodian endeavored to intervene, for it is only to "The owner of any patent . . . under which a license is granted" that Section 10 (f) of the Trading with the Enemy Act accords the right "to file a

bill in equity against the licensee * * * for recovery (of fees, compensation or royalties) for all use and enjoyment of the said patented inventions."

Were the German plaintiffs owners of the royalties at the time of suit? They were, without question, owners of the patents at the time the Federal Trade Commission issued the license under them to the defendant. They were, however, at that time enemy owners and it was because of that characterization and of the exigencies of war as well, that the use and enjoyment of the patented inventions were taken from them and, in the interest of the public welfare and the successful prosecution of the war, turned over to the defendant through the medium of a license. Though called a "license" for want of a better term, the legal minds in Congress recognized that it was not a true license, for a license in the legal sense can be granted only by the owner of a patent, Ruffin v. Seaboard Air Line R. Co., 151 N. C. 330, 66 S. E. 317; Williams v. Concord Cong. Church, 193 Pa. 120, 44 Atl. 272, and, in consequence, the royalties were not true royalties. The transaction was in essence more nearly a qualified confiscation. So the Congress, though using the word "license," hesitated in using the word "royalties" as the consideration for what was not really a license but used also the words "fee," "damages," "other money." Moreover, instead of leaving an aggrieved owner of a patent to his normal remedy of suit for royalties, the Congress, realizing that the use even of an enemy owned patent without a true license from the owner would subject the user to suit for infringement, shut off the enemy patent owner from such an action and protected the patent user—called "licensee"—by providing that:

"Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent * * * against the licensee for infringement or for damages, royalty, or other money awarded on account of anything done by the licensee under such license except as provided in Sub-section (f) hereof." (Section 10, Sub-section (c).

It is on this defense that the defendant licensee relies.

When the Federal Trade Commission thus deprived the German patent owners of the use and enjoyment of their

patented inventions, the Germans still remained owners of the patents in the sense of owning the title thereto. But on February 2 and March 22, 1919, the Alien Property Custodian under authority of the Trading with the Enemy Act, as amended, seized the patents. United States v. Chemical Foundation, Inc., 272 U. S. 1. That was long before these suits. Upon seizure of this enemy property the title of the enemy owners passed out of them. United States v. Chemical Foundation, Inc., supra; Hicks v. Anchor Packing Co., 16 Fed. (2d) 723, and it is not now claimed that title to the patents ever went back into them. But the German plaintiffs do claim that when the ownership of [fol. 255] the patents passed from them by seizure, ownership of the royalties under the license remained in them because the royalties were never seized, or, if seized, ownership is in them for a reason presently to be discussed.

Section 7 (c) as amended (50 U. S. C. A. App., p. 210) authorized the Alien Property Custodian to seize among other things "patents, * * * choses in action, and rights and claims of every character and description owned or belonging to * * * an enemy * * *." Under authority of that provision of the War Act, the Custodian, by formal instrument addressed to proper parties, when he seized the named patents also seized "every right, title and interest with respect thereto, including all damages and profits recoverable at law or in equity from any person, firm, corporation, or government, for past infringement thereof, subject to the rights of" the defendant licensee.

That the seizure—symbolic in character—completely divested the German owners of their title to the patents is now decided. United States v. Chemical Foundation, Inc., 272 U. S. 1; Commercial Trust Co. v. Miller, 262 U. S. 51, 56; Hicks v. Anchor Packing Co., 16 Fed. (2d) 723. Whether the seizure included the royalties incident to the patents and deprived the German owners of the right later to recover them under Section 10 (f) of the Act as though they had never been seized, depends upon whether the words employed in the act of seizure were broad enough to embrace them. It would seem on their face that the words "every right, title and interest with respect to" the patents would include royalties. Royalties are a very real "interest" in, or in respect to, a patent and the right to recover royalties is a very real "right." And they do in-

clude royalties unless there be substance in the German plaintiffs' contention that under well settled law "An assignment of a patent and of right, title and interest thereto does not (without more) transfer to the assignee the right to recover damages or profits for past infringement, Herman v. Detroit Shipbuilding Co., 295 Fed. 423, 425; Moore v. Marsh, 7 Wall. 515, 522; United States v. Loughrey, 172 U. S. 206, 211, 212; Canda Bros. v. Michigan Malleable Iron Co., 152 Fed. 178, 180, * * * and, a fortiori, it (such a general assignment) would not confer the right to recover past royalties which would remain in the assignor." Accepting this law in the abstract, it is pertinent to note that we are not here concerned with an assignment of a patent or of royalties by the German owners to the Alien Property Custodian. We are concerned with their capture—an act of war. We are not dealing with an assignment of patents where there is a question of what was in the minds of the contracting parties as to royalties and as to what passed and what was retained under the terms of an instrument they had drawn and signed. We are dealing with an act of seizure and have to determine wholly outside the law of assignments whether by the terms of the symbol of seizure the royalties in question were included. Having in mind the purpose of the law and observing that the Custodian manifestly attempted to seize the German patents and everything "in respect" to them and to their ownership, we are of opinion that he accomplished what he attempted by words that embrace the royalties in question, and that, in consequence, the German plaintiffs were owners of neither the patents nor the royalties at the time they instituted their suits—unless the quoted amendment to Section 10 (f) of the Trading with the Enemy Act made by the Settlement of War Claims Act of 1928, (which leaves the remedy for royalties as originally provided to "The owner of any patent" at time of suit, whoever he may be), ruthlessly divested the party who acquired ownership by capture, or the party who later [fol. 256] acquired ownership by purchase from the captor, of his ownership in the royalties and revested it in the original owners.

The right to the accrued royalties, in whomsoever vested, is a chose in action; a chose in action is property; and an act which takes property from one person and gives it to

another without legal procedure to determine their rights and without compensation is a deprivation of property without due process of law and is violative of the Fifth Amendment to the Constitution. Subscribing to the reasoning of the learned trial judge, we hold that the Amendment of 1928, valid and useful perhaps in many situations, did not restore to the German plaintiffs ownership of either the patents or the royalties. It follows they did not own the royalties when they filed their bills—the critical time under the statute supplying the remedy—and that, in consequence, the decrees dismissing their suits must be affirmed.

Was the Alien Property Custodian owner of the royalties, or of the right to recover them, at the time of the Germans' suits in 1922 or in 1928 when he sought to be substituted for the German plaintiffs?

Disposing of the last question first, it appears to us that whatever the meaning or intent of the amendment to Section 10 (f), on which the Custodian relies for his right to recover royalties, whether to restore to the Germans a claim for the use and enjoyment of their patented inventions or otherwise, it, by definite expression, relates only to "royalties for the period prior to the sale by the Alien Property Custodian of such patents" which the Foundation is not now seeking to recover. Moreover, the amendment leaves the main body of Section 10 (f), as first drawn, untouched and therefore leaves it with its limitation that, to recover royalties, the "owner" of the patent must file his bill within one year after the end of the war. The Custodian, if owner, has never filed such a bill. Therefore the statute has run against him. Doubtless realizing this, he asked the trial court that he be substituted for the German plaintiffs who filed their bills within the time the statute prescribed. This, seemingly, was an attempt on the part of the Custodian to get under the fallen bar of the statute of limitations and avail himself of the diligence of the German plaintiffs and, oddly enough, to deprive them of their rights, seasonably asserted, to litigate their claims against the defendant licensee. This, without more, is enough to sustain the trial court's refusal to substitute the Custodian for the German plaintiffs. But as the Custodian's ownership of the patents and royalties, past or present, is a step in the orderly devolution of owner-

ship or title to the patents and royalties in question, we shall, for purposes of discussion, regard the Custodian as properly in court and inquire whether or not he owned the patents and royalties at the date of the Germans' suit.

Whereas the German plaintiffs contend that when the Alien Property Custodian seized the patents in question he did not seize the right to recover from the defendant licensee compensation for their use prior to seizure, the Alien Property Custodian contends that he did seize that right but did not assign it to the Chemical Foundation, and that, in consequence, the right so lawfully seized and the ownership so lawfully acquired continues in himself.

In deciding against the German plaintiffs that on seizure of the patents and royalties the title of the enemy-owners passed out of them, United States v. Chemical Foundation, Inc., supra; Hicks v. Anchor Packing Co., supra, it follows necessarily that the title went somewhere. That it went to the Alien Property Custodian who captured them on behalf of the United States is the necessary implication, and, as to patents, is the express finding of the Supreme [fol. 257] Court when in the Foundation case it sustained the Custodian's sales of the captured patents. United States v. Chemical Foundation, Inc., 272 U. S. 1, 15, 16. Although the Congress may, when it enacted Section 10 (f), have had in mind only the original owners, it is manifest that by the amendments of March 28 and November 4, 1918 authorizing the Custodian to seize and sell enemy owned patents and their incidents, it either recognized or created a new "owner" or class of owners, namely, the Custodian and his vendees, qualified by Section 10 (f) to sue licensees for royalties within one year after the end of the war. Therefore, we find ourselves in full accord with the contention of the Custodian that his title to the patents and his right to recover royalties were complete and valid by virtue of a lawful seizure. If he had held the patents and retained the right to recover royalties, in other words, if he had remained "owner" of them until now, he would, if he had conformed to other requirements of the Act, have an undoubted right, as against the German plaintiffs and the Chemical Foundation, to recover them. But on April 10, 1919 he sold the patents to the Chemical Foundation and by that act clearly ceased to be "The owner" of the patents within the sense of Section 10 (f).

The Foundation says that he sold the incidental royalties also. This the Custodian denies. Just here is the turning point in the issue between the Custodian and the Foundation. On this issue we shall do little more than recite the facts.

On April 10, 1919, the Alien Property Custodian, under the authority of executive orders promulgated February 26 and April 5, 1919, by Frank L. Polk, acting for the President (since determined to be valid orders), assigned to the Chemical Foundation "the whole right, title and interest acquired by the said Alien Property Custodian as aforesaid, (i. e. by seizure) in and to" the patents here in question, "together with all claims, demands for profits and damages recoverable at law or in equity for the past infringement of said letters patent. * * *"

Doubt having arisen as to the authority of the Custodian to sell and convey to the Foundation "certain of the said choses in action * * * and rights and claims, including rights to receive moneys by way of royalties or otherwise, as compensation for the use of patents," the President, by executive order dated February 13, 1920, confirmed the authority of the Custodian in that regard, and further authorized him "to confirm and ratify the said sales by the execution and delivery of a suitable instrument of confirmation."

Therefore, on March 1, 1921, the Custodian executed a new assignment to the Foundation confirming and ratifying the prior sales of the patents here in question and specifically assigning to it "all choses in action, * * * rights and claims of every character and description growing out of and pertinent to the ownership of said property, including * * * rights to receive moneys by way of royalties or otherwise as compensation for the use of patents, * * *;" and reciting that the intent and purpose was "to vest in the said Chemical Foundation, Inc., every right, title, interest, claim and demand, save such as are specifically excepted in and by the said assignments, acquired by the Alien Property Custodian by virtue of the seizures."

Both of these conveyances, original and confirmatory, in so far as they related to patents and whatever rights

were embodied within their terms, were upheld by the Supreme Court in United States v. Chemical Foundation, Inc., 272 U. S. 1, 71 L. Ed. 131. As it has been decided by several courts and finally by the Supreme Court that the seizure and sale of these patents were lawful and as we have held in this case, in accord with the Custodian's contention, that the seizure embraced the right to recover royalties on [fol. 258] the outstanding license, it follows that when the Custodian by one instrument sold and assigned to the Foundation generally the whole of everything he had acquired through seizure and by the other instrument specifically sold the "rights to receive moneys by way of royalties or otherwise as compensation for the use of patents, * * * acquired by (him) by virtue of the seizure," he sold and divested himself of all he had acquired, which, on his own contention, included the right to recover royalties, and, in consequence, he is no longer "owner" of the patents or of their incidental rights—unless, as he finally maintains, he, or rather his predecessor in office, while having power to sell the patents was without power to sell the right to the royalties on the theory that, in its power to seize and dispose of enemy owned property as it should see fit, United States v. Chemical Foundation, Inc., 272 U. S. 1; Brown v. United States, 8 Cranch. 110; Miller v. United States, 11 Wall. 268, the Congress has postponed the disposition of royalties arising under war time licenses, including the royalties in suit.

We find no statute [illegible] by the Congress divested, or seemingly intended to [illegible], a vendee of ownership in property lawfully seized and lawfully conveyed and revest it in the Custodian. The Custodian therefore ceased to own the royalties or the right to recover them when he sold and assigned that right to the Chemical Foundation. As the rights of a plaintiff in an action of this kind are defined and limited by the statute, the trial court committed no error when it refused to substitute the Custodian for the German plaintiffs.

And, finally, was the Chemical Foundation owner of the royalties, or the right to recover them, at the time of its suit?

It filed its bill within the period prescribed by the statute. The same lawful seizure by a predecessor in title, which divested the original owners of their property, enured to the title of the Foundation. The same valid sale that divested the Custodian of title vested title in the Foundation. It was in consequence "owner" of both patents and right to royalties at the time of its suit, and, as it has not, so far as the record shows, since then relinquished or been lawfully deprived of its ownership and right, it alone it entitled to sue for and recover the royalties in question.

We subscribe to the reasoning of the learned trial judge on the main issues and the related issues of these cases and direct that the decrees be in all respects affirmed.

Davis, Circuit Judge, took no part in the consideration and decision of this case.

A true Copy. Teste: —— ——, Clerk of the United States Circuit Court of Appeals for the Third Circuit.

[fol. 259] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4094 (List No. 68)

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING; DEUTSCHE Gold & Silber Scheide Anstalt vorm Roessler; and Badische Anilin & Soda-Fabrik, Appellants,

vs.

CHEMICAL FOUNDATION, INC.; E. I. DU PONT DE NEMOURS & Co., and Walter O. Woods, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 260] In United States Circuit Court of Appeals for the Third Circuit, October Term, 1929.

No. 4095 (List No. 69)

Walter O. Woods, as Treasurer of the United States, Appellant,

vs.

Chemical Foundation, Inc., and E. I. du Pont de Nemours & Co., Appellees

Appeal from the District Court of the United States for the District of Delaware

Decree—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 261] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4096 (List No. 70)

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING, Appellant,

vs.

E. I. DU PONT DE NEMOURS & Co. and WALTER O. WOODS, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 262] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4097 (List No. 71)

HOWARD SUTHERLAND, as Alien Property Custodian, Appellant,

vs.

FARBWERKE VORMALS MEISTER LUCIUS & BRUNING and E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States, Appellee-

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 263] In United States Circuit Court of Appeals for the Third Circuit, October Term, 1929

No. 4098 (List No. 72)

Deutsche Gold & Silber Scheide Anstalt vormals Roessler, Appellants,

vs.

E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

Decree—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 264] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4099 (List No. 73)

HOWARD SUTHERLAND, Alien Property Custodian, Appellant,

vs.

DEUTSCHE GOLD & SILBER SCHEIDE ANSTALT VORMALS Roessler and E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 265] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4100 (List No. 74)

BADISCHE ANILIN & SODA-FABRIK, Appellant,

vs.

E. I. DU PONT DE NEMOURS & Co. and WALTER O. WOODS, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 266] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1929

No. 4101 (List No. 75)

HOWARD SUTHERLAND, Alien Property Custodian, Appellant,

vs.

BADISCHE ANILIN & SODA-FABRIK and E. I. DU PONT DE Nemours and Co. and Walter O. Woods, as Treasurer of the United States, Appellees

Appeal from the District Court of the United States for the District of Delaware

DECREE—Filed Mar. 4, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the District of Delaware and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed.

Philadelphia, March 4, 1930.

Victor B. Woolley, Circuit Judge.

[File endorsement omitted.]

[fol. 267] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 268] IN SUPREME COURT OF THE UNITED STATES

Nos. 271, 272, 273, 274

ORDER EXTENDING TIME WITHIN WHICH TO APPLY FOR WRIT OF CERTIORARI—Filed June 5, 1930

On consideration of the motion of the Solicitor General, counsel for the petitioners in the above-entitled causes, and good cause therefor having been shown,

It is now here ordered that the time within which petition for writ of certiorari may be filed herein be, and the same is hereby, extended for a period of 35 days from this date.

Charles E. Hughes, Chief Justice of the United States.

Dated this 4 day of June, 1930.

[fol. 268½] [File endorsement omitted.]

[fol. 269] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 179

ORDER ALLOWING CERTIORARI—Filed October 13, 1930.

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 270] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 180

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is

granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 271] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 181

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 272] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 182

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 273] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 271

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is

granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 274] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 272

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 275] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 273

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 276] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1930

No. 274

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is

granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Endorsed on cover: File No. 35,101, 35,102, 35,103, 35,104. U. S. Circuit Court of Appeals, Third Circuit. Term No. 179. Farbwerke vormals Meister Lucius & Bruning, Deutsche Gold & Silber Scheide Anstalt vorm., etc., et al., petitioners, vs. Chemical Foundation, Inc.; E. I. du Pont de Nemours & Co., etc., et al. Term No. 180. Farbwerke vormals Meister Lucius & Bruning, petitioner, vs. E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States. Term No. 181. Deutsche Gold & Silber Scheide Anstalt vorm. Roessler, petitioner, vs. E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States. Term No. 182. Badische-Anilin & Soda-Fabrik, petitioners, vs. E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States. Petition for writs of certiorari and exhibit thereto. Filed June 4, 1930. File No. 35,101, 35,102, 35,103, 35,104. File No. 35,193, 35,194, 35,195, 35,196. U. S. Circuit Court of Appeals, Third Circuit. Term No. 271. Walter O. Woods, as Treasurer of the United States, petitioner, vs. The Chemical Foundation, Inc., and E. I. du Pont de Nemours & Co. Term No. 272. Howard Sutherland, as Alien Property Custodian, petitioner, vs. Farbwerke Vormals Meister Lucius & Bruning, E. I. du Pont de Nemours & Co., and Walter O. Woods, as Treasurer of the United States. Term No. 273. Howard Sutherland, as Alien Property Custodian, petitioner, vs. Deutsche Gold & Silber Scheide Anstalt Vorm. Roessler, E. I. du Pont de Nemours & Co., and Walter O. Woods, as Treasurer of the United States. Term No. 274. Howard Sutherland, as Alien Property Custodian, petitioner, vs. Badische Anilin & Soda-Fabrik E. I. du Pont de Nemours & Co. and Walter O. Woods, as Treasurer of the United States. Petition for writs of certiorari and exhibit thereto. Filed July 8, 1930. File No. 35,193, 35,194, 35,195, 35,196, 35,101.